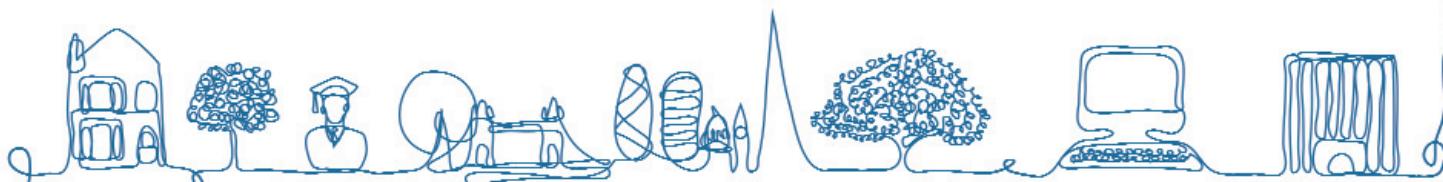




Planning 2020

Raynsford Review of Planning in England

Final Report



November 2018

Planning 2020 – Final Report of the Raynsford Review of Planning in England

November 2018

Published by the TCPA



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Town and Country Planning Association

The Town and Country Planning Association (TCPA), founded in 1899, is the UK's oldest independent charity focused on planning and sustainable development. Through its work over the last century, the Association has improved the art and science of planning both in the UK and abroad. The TCPA puts social justice and the environment at the heart of policy debate, and seeks to inspire government, industry and campaigners to take a fresh perspective on major issues, including planning policy, housing, regeneration and climate change. The TCPA's objectives are:

- To secure a decent, well designed home for everyone, in a human-scale environment combining the best features of town and country.
- To empower people and communities to influence decisions that affect them.
- To improve the planning system in accordance with the principles of sustainable development.

Planning 2020

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Acknowledgements

The Review team acknowledge the contribution of members of the Task Force, working in a personal capacity to support the process, and are grateful to those individuals and organisations that made submissions in response to the call for evidence and contributed through the various regional events and roundtables. The Review team also acknowledge the support of David Lock Associates, the Campaign to Protect Rural England, the Network for Social Change and University College London in providing research capacity. Special thanks are due to Julia Foster and Paul Farrell of David Lock Associates for their work on design, and to the Board of Trustees and the Policy Council of the TCPA for advice and support. Finally, the Review team are particularly grateful for those in the sector who gave their time to comment in detail on the Review proposals, including Professor Tony Crook, Lee Crookes, Vincent Goodstadt, Professor John Henneberry, Andy Inch, David Lock, Kelvin Macdonald, Jenny Nuttal, Professor Gavin Parker, Alister Scott, and Lee Shostak. Special thanks are due to Nick Matthews, whose work in editing and laying out this document made an invaluable contribution to the final result.

Foreword

In my Foreword to our Interim Report, published in May 2018, I referred to the extensive and troubling evidence we had received of widespread disenchantment with the planning system as currently operating, and its perceived failure to deliver the outcomes the country needs and deserves. That evidence led us to three conclusions:

- First, a period of near-continuous change in the planning system over the past decade has compounded rather than resolved the problems these so-called reforms were designed to remedy.
- Second, in place of short-term tinkering we need to take a long, hard look at the fundamentals – the purpose of planning, how it can best be structured, and how all parties can engage most constructively in the planning process.
- Third, a further period of conversation was required, focusing on nine propositions set out in that Interim Report which, in our view, could form the basis of a robust and effective planning system fit for purpose in the third decade of the 21st century.

Between May and October 2018, that conversation proceeded across the country, with an extensive programme of consultations, seminars and roundtable discussions, involving a very wide range of participants. This has given us a wealth of additional insights, as well as an even stronger evidence base for the conclusions and recommendations which are now set out in this, our Final Report. It has been particularly heartening to learn through this process that the propositions in the Interim Report have not been fundamentally challenged. On the contrary, they have been strongly supported by a broad swathe of public, commercial and professional opinion. Of course there have been loads of suggestions for improvements and alterations in

detail and emphasis. We have welcomed these and sought to incorporate many in the Final Report. We have also added a tenth proposition to fill a gap identified during the conversation. But the clear conclusion to emerge from the further six months of consultation and debate is that there is no compelling alternative vision for the future of planning in England to that which flows from the ten propositions.

Our engagement with communities, businesses, practitioners and the wider public has revealed a real appetite for a revitalised planning system capable of effective and visionary place-making, and organised to deliver solutions to the big challenges we will increasingly face. These include increasing the quantity, improving the quality and ensuring the affordability of new homes to meet the country's housing needs, as well as responding more effectively to the huge challenge of climate change, improving connectivity both digitally and through improved transport links, and securing the investment necessary to address and overcome the divisions and inequalities which still scar our society.

None of these are easy tasks, nor will they be delivered quickly. But it is not beyond our country's means to introduce new and improved guiding principles, structures, relationships and processes to the planning system with the potential to deliver real economic, social and environmental advances. This Report sets out how we believe this can be done. We have adopted a comprehensive approach, covering a broad range of issues, rather than narrowly focusing on specific elements. Indeed, in working through the details, we have been very conscious of the need for the individual recommendations not just to stand or fall on their own,



but to work together to reinforce each other and so generate a more powerful and enduring framework.

Above all, I want to stress how important it is that we get this right. Planning reform is not at heart a debate about technicalities. It is about outcomes for people across all parts of our country, and about the prospects for generations to come. It is about aspiration for a better future in which we and our successors can create places of beauty and opportunity, rather than accepting the poor-quality outcomes that are increasingly being generated by current arrangements. We make no apologies for setting our sights high. To do anything less would, in my view, be a dereliction of duty.

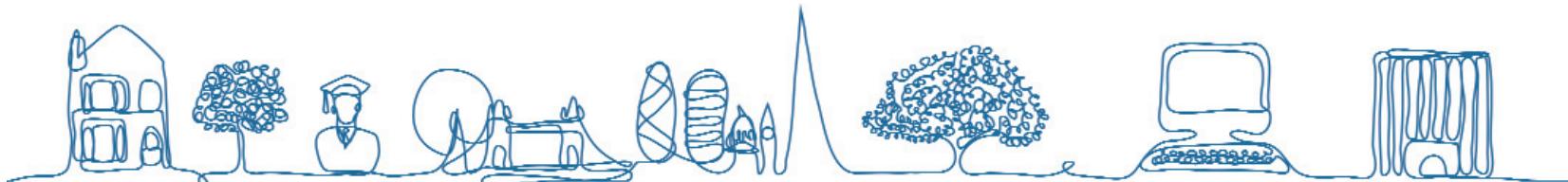
Because the Final Report covers, deliberately, a very broad canvas and does not flinch from addressing seriously challenging issues, we do not expect it to secure a unanimous welcome and universal support. Nor do we expect instant results. People will rightly want to consider the implications of our proposals and assess their likely impact. To assist this process we will over the coming months be engaging once again with people and organisations from all parts of the country to help them form judgements on our recommendations and consider how they can transform a troubled system into one which is capable of meeting the country's needs.

An enormous amount of work has gone into this Review and the two Reports it has generated, and I

would like to express my deep appreciation for the inputs we have received from so many people and organisations. Sincere thanks are due to all those who have submitted evidence and participated in the many meetings and discussions which we have held. This has been an evidence-based review, and the quantity and quality of evidence we have received has been exceptional. I owe a particular debt of gratitude to the Review Task Force, whose expertise and wise advice have been invaluable throughout the process. Equally important has been their tolerance and understanding when asked to respond to very tight deadlines for comments on drafts and emerging conclusions. The unflagging support of the TCPA staff – far beyond the call of duty – has been fundamental to us completing all the tasks we set. Finally, a very special thank you is owed to Hugh Ellis, the TCPA Policy Director, who has undertaken the lion's share of the research, analysis and drafting for this Report. Without his unstinting commitment, intellectual rigour, encyclopaedic knowledge and sustained hard work, this Report would never have seen the light of day.

I hope that you will find the following pages worth the read, and will share our ambition to lay the foundations for a revitalised English planning system, capable of rising to the challenges our country will face in the years ahead and delivering a better future.

Nick Raynsford
President of the TCPA



Section 1

Introduction



How we organise and design our communities makes a profound difference to people's long-term health and wellbeing. Sometimes the impacts are immediate, personal and tragic, as at Grenfell Tower. In other cases the impacts are less direct but still important to people's lives, as in how we deal with flooding, or the benefit that access to parks and gardens can have for people's mental health. In a wider sense, the co-ordination of transport, power and water systems with efforts to meet the need for new housing brings multiple benefits to our economy and society.

Planning can claim many extraordinary achievements. From the delivery of millions of homes to the conservation of the countryside, to the establishment

of our National Parks, planning has made the nation immeasurably better. At its best, planning has the potential to deliver vibrant, beautifully designed places. The problem is that the outcomes of planning decisions often fail to realise this opportunity and, in some cases, result in extremely poor-quality development. Despite, or perhaps because of, the seemingly continuous process of 'reform' of the planning system in recent years, there remains deep concern that planning no longer delivers for people. There are also concerns that today's planning system is not fit for purpose in securing lasting progress on key aspects of the economy, in meeting housing needs, in tackling climate change, or in mitigating the current stark inequalities between the regions of England.



The strongest critique has come from those who regard planning as an anti-competitive activity and an unwarranted interference in the free market in land. These criticisms have been expressed by successive national politicians, significantly contributing to questions about whether we actually need a planning system. This view was distilled in 2011 when the then Prime Minister, David Cameron, described planning as the ‘enemy of enterprise’.¹

Since 2010 the English planning system has gone through a period of ‘radical’ reform and deregulation,² but the outcomes for communities, the environment and the economy remain uncertain. Local government planning departments are under growing pressure to perform, but many report that they do not have sufficient resources, skills and capacity. Evidence³ suggests that Local Plans have downgraded or removed policy on affordable homes, climate change and social inclusion. All of this is contributing to an increasing level of concern over the kinds of places that are being delivered. Are we building the kinds of communities that the nation needs and deserves?

It was in this context that the TCPA established an independent review of planning in England, chaired by its President, the Rt Hon. Nick Raynsford, a former Housing and Planning Minister. The Raynsford Review Task Force began work in May 2017 and published an Interim Report in May 2018.

Terms of reference

The detailed terms of reference of the Review are set out in Annex 1 of this Final Report, but the primary focus of the Review has been a holistic appraisal of the kind of planning system that England will need from 2020 onwards. Its aim has been to identify the ingredients for a successful and positive planning system in terms of:

- a vision for the future of the nation;
- the principles underpinning a fit-for-purpose planning system;
- the required structures and processes at national, sub-national or city-regional, local and neighbourhood scale; and
- the leadership, resources and skills needed to transform planning.

The evidence the Review examined

The Review’s recommendations are founded on four principal strands of evidence:

- a detailed literature review of the development of our planning system and the lessons we can learn from this history;
- an examination of the conclusions of previous reviews of planning;
- specific policy analysis papers on key issues, such as the plan-led system, betterment taxation, and people and planning;⁴ and
- written and oral evidence submitted to the Review.

Notes

- 1 D Hickey: ‘Cameron labels planning officers ‘enemies of enterprise’’. *Planning*, 7 Mar. 2011. <https://www.planningresource.co.uk/article/1058481/cameron-labels-planning-officials-enemies-enterprise>
- 2 The language of ‘radical change’ and ‘deregulation’ was used repeatedly by the government in the run-up to the Localism Act of 2011. It has also been the conclusion of the courts in relation to the change brought about by the National Planning Policy Framework in 2012. See, for example, quotes from the Secretary of State in ‘Radical changes in housing and planning will drive local growth’. News Story. Department for Communities and Local Government, 23 Mar. 2011. <https://www.gov.uk/government/news/radical-changes-in-housing-and-planning-will-drive-local-growth>
- 3 See, for example, *How Can Councils Secure the Delivery of More Affordable Homes? New Models, Partnerships and Innovations*. TCPA, Nov. 2107. <https://www.tcpa.org.uk/Handlers/Download.ashx?IDMF=84887d6c-08a1-4df4-b72b-0f3e56e212b4>; *Planning for the Climate Challenge? Understanding the Performance of English Local Plans*. TCPA, Nov. 2016. <https://www.tcpa.org.uk/planning-for-the-climate-challenge>; and *A Crisis of Place: Are We Delivering Sustainable Development through Local Plans?* TCPA, Nov. 2016. <https://www.tcpa.org.uk/a-crisis-of-place>
- 4 The Raynsford Review background papers can be found on the Raynsford Review pages of the TCPA website, at <https://www.tcpa.org.uk/raynsford-review>



We know that we can produce high-quality places, but all too often the outcomes of planning decisions suggest otherwise

A need to look at the basics?

From a very early point in the Review team's deliberations, it became clear that there is a need for a fundamental reconsideration of the English planning system. Many of the early engagement events highlighted cross-sector concern about the 'endless tinkering' with the system, carried out without a clear sense of what reform was meant to be achieving. Planning deregulation has proved a popular political slogan and has featured as a core objective of each Budget Statement for the last decade. The resulting changes have been the most extensive and continuous in the post-war period. But despite these radical changes, there remains uncertainty over the overall narrative of reform and what it is meant to achieve. What is clear is that there has been an absence of any kind of national conversation about many of the changes made to the system; nor has there been any clear public approval for specific changes such as the extension of permitted development rights.

Many of the previous reviews of the planning system in England assumed a consensus in favour of a democratically accountable way of managing land and the built environment for the wider public good. That consensus no longer holds. As a result, any review of planning in England must explore the founding principles of the system and test whether they have relevance for the problems we face today. Should decisions about the future organisation of communities be left solely to the market and private property rights? Should decision-making be taken out of local democratic control? **Is there currently too much planning or too little?**

The Review was established to try to answer these basic questions and lay the foundations for a new planning system which could command the confidence of the public and help deliver the development that the nation needs. The Review has taken extensive written evidence and held two rounds of regional meetings, thematic roundtables, and more than 150 individual interviews. The Interim Report contained a series of nine propositions which have subsequently been tested at a further set of public events.

The state of English planning

Overall, the evidence we explored was complex, but it illustrates a planning system which has undergone a bewildering rate of change and is now fragmented and confusing.

Planning in England is less effective than at any time in the post-war era, with an underfunded and deeply demoralised public planning service, conflicting policy objectives, and significant deregulation. The starker example of the outcomes of this approach is the conversion of office and commercial buildings into housing units using permitted development rights which were extended in 2013. In such cases planning requirements for things such as affordable housing, play space, national space standards or school places do not apply. In some instances, the result is development which has serious adverse implications for people's health and wellbeing. The evidence on the quality of homes produced through this route is now emerging, but the scale of development is striking,



The planning system in England is not currently working effectively in the long-term public interest of communities or the nation

with estimates of between 86,665 and 95,045 units delivered between 2010 and 2017.⁵

The government's announcement of its intention to extend even further this permissive 'shadow' planning process⁶ appears to reflect its model for the future direction of the system; and this has real implications for people and for the nature of both planning and planners. This reflects the tension recorded in evidence presented to the Review as to whether planning is a form of land licensing, which implies one set of skills and outcomes, or the much more complex and creative practice of shaping places with people to achieve sustainable development. The former task is like painting by numbers; the latter is like painting the Sistine Chapel. The difference in outcomes for people is equally stark.

Ironically, while planning has lost control of a range of development, the legal framework that underpins it has become more complex and confused, with fragmented legislation shaping differing aspects of local and national planning and little co-ordination between the two. The division of responsibilities between the public institutions that drive our collective planning effort is

equally confused. So too are local government boundaries, which are often a poor fit with the areas that we need to plan for. English devolution has led to the emergence of divergent strategic planning systems which are also hard to understand. Many national agencies have overlapping and ill-defined responsibilities. For example, the growth area of the Cambridge-Milton Keynes-Oxford Corridor is defined by the work of the National Infrastructure Commission, supported by the work of the Infrastructure and Projects Authority and Homes England, but their remit and accountability are separate from those of the local authorities that ultimately have to drive implementation on the ground. The decisions of multiple central government departments and their agencies and other sub-regional bodies such as Local Enterprise Partnerships, each with their own remits, will also be vital to the success of the growth area.

There has also been a striking loss of public trust in planning. A stark comparison can be drawn between the post-war consensus over the value of planning and the highly polarised contemporary arguments which play out over issues such as housing and 'fracking'. This process is part of a wider change in civil society, manifested in declining political participation and a loss of

Notes

5 P Bibby, P Brindley, A McLean, J Henneberry, D Tubridy and R Dunnin: *The Exercise of Permitted Development Rights in England since 2010*. Royal Institution of Chartered Surveyors, May 2018.

<https://www.rics.org/uk/knowledge/research/research-reports/the-exercise-of-permitted-development-rights-in-england-since-2010>

6 *Planning Reform: Supporting the High Street and Increasing the Delivery of New Homes*. Ministry of Housing, Communities and Local Government, Oct. 2018. <https://www.gov.uk/government/consultations/planning-reform-supporting-the-high-street-and-increasing-the-delivery-of-new-homes>

trust in ‘experts’. Clearly planning is not solely responsible for this wider political trend, but planning decisions are one of the greatest catalysts of local political activity because of their direct impact on people’s lives. Rebuilding trust in the system and promoting a more constructive dialogue between planners and the public is clearly a priority in rethinking the system.

Who does the planning system serve?

If there is one striking conclusion to be drawn from the work of the Review, it is that the current planning system in England does not work effectively in the long-term public interest of communities or the nation. Putting this right requires a forensic examination of the current planning system and the many myths which surround it. It also requires a clear acknowledgement that the system needs to work in the interests of all. It should not be a system designed for the convenience of those who administer it, although it should be efficient and effective. Neither can it be a system which operates simply in the interests of the private sector, or a system dominated by any particular vested interest. It must strike a balanced settlement in which the development needs of our communities are met in the most sustainable ways, and in which all parts of the community have a real voice in the decision-making process. This will always be hard to achieve; but, while a perfect system may be beyond our reach, a much improved one is not.

A nostalgia for planning?

There is a real danger that any analysis of planning will focus too much on the many criticisms of the current system reflected in the submitted evidence. It is true that few respondents regarded the statutory planning system as a vessel for dynamic and creative solutions. While recognising the strength of such perceptions, we have sought to avoid, on the one hand, an unduly negative assessment of the current planning process and,

on the other, any inappropriate sentimental attachment to procedures and systems which are no longer functioning effectively. Instead, the Review team have tried to keep an open mind about the potential opportunities for planning to provide practical and creative solutions to issues such as housing, inequality, and climate change. In practice, this means being open to the consideration of new ideas, such as expanding the remit of planning to deal with upland management to reduce flood risk, or finding ways of exploiting the transformational impact of new technology in helping communities to engage with and shape change. In short, while the Review has been keen to learn from the past, the ambition has not been to return to some fictional ideal or to prop up existing practices, but instead to find real and practical solutions to the challenges that lie ahead.

The objectives of the Final Report

The Interim Report set out a high-level scan of the state of English planning and nine basic propositions for a renewed system. This Final Report builds on the analysis to offer a more detailed description of the evidence and a comprehensive set of recommendations on how to deliver on the ambition of the propositions. The Review team were determined to try to make the Final Report as accessible and as brief as was humanly possible. This is a real challenge given the breadth of issues and the wealth of evidence presented to the Review and set out in the background papers commissioned by the Review team.⁷

Many of the issues we encountered raised major constitutional issues, each of which could merit a Royal Commission – such as how much power citizens should have over their lives, or the necessary structures and powers of local government. While the Review team acknowledged all this complexity we remained focused on offering a high-level but comprehensive narrative for the future of planning, backed by recommendations designed to significantly improve the system.

Note

⁷ The Raynsford Review background papers can be found on the Raynsford Review pages of the TCPA website, at <https://www.tcpa.org.uk/raynsford-review>

Is change possible?

The Final Report is honest about the scale of change that is required, but tries to steer a fine line between what logically needs to change and what might be politically feasible. It seeks to identify those issues – such as the creation of a powerful local development plan – which might solve a whole range of the problems that currently beset the system. Above all, the Report seeks to re-focus the planning system on the long-term sustainable development of England and the health, safety and wellbeing of its communities.

Finally, the Review team have no illusions about how difficult change will be. We hope this report will make a powerful contribution to a vital debate about how planning can help secure a fair and sustainable future for all sections of society and for all parts of our divided nation. There is no doubt that there needs to be both long-term cross-party support and some degree of acceptance across the sector on the future reform of the system. In this context the Review team have remained genuinely open-minded about alternatives, some of which are summarised in Section 5.

Given the wide range and the complexity of the issues involved, it would be surprising if the Report's conclusions secure unanimous support. Some of the recommendations will not please everyone, but we believe that the Report is a basis for a broad consensus, leading to lasting reform. The conclusions and recommendations are not just a collection of ideas: the Review team have aimed to draw up an interlocking set of proposals which reinforce each other and support the overarching objective of a coherent and effective way of meeting the country's needs.

Note

- ⁸ Despite their importance, the Review was not primarily focused on building regulations, on which there has been a separate investigation after the Grenfell Tower tragedy; nor on the public entertainment licensing or pollution permitting regimes

The focus and structure of the Final Report

Given the breadth of the 'planning' question, it is important to make clear that our work was focused on the major underlying questions over the performance of the system, and not primarily on its detailed administrative management.⁸ This focus on the 'big picture' question is justified by a lack of any similar holistic review in recent years. It is also significant that much of the frustration with the system is symptomatic of deeper problems, such as the appropriate role of people in planning, the power of the development plan, the boundary between private rights and the public interest, and the betterment tax question. Solving these fundamental problems would do much to reduce the complexity of the system and allow for its efficient administration. The Review team were also concerned to add value to the debate while not rehearsing policy issues (such as the merits of Green Belt) which have been subject to detailed exploration elsewhere.

Section 2 makes clear what we mean by planning and summarises the key players who drive the system. Section 3 provides an explanation of the development of the current planning system and explains why the system was introduced and the principles that underpinned it. Section 3 also considers previous reviews of the system. Section 4 examines the state of the current system. Section 5 deals with the evidence that the Review has received, including from a brief scan of international systems. Section 6 reflects on the implications of this evidence and provides ten high-level propositions for the reform of the planning system. The Report sets out 24 detailed recommendations which address these propositions in Section 7.



Section 2

What is planning, and why should we care about it?



We believe that planning should be a visionary, creative and inclusive process, enabling the delivery of high-quality architecture and great places for people to live, work and play. However, in recent decades the system has become increasingly reactive, devalued and under-resourced.

RIBA submission to the Review

Given that one of the central strands of evidence presented to the Review is the lack of agreement about the purpose of the English planning system, it is vital to be clear about what we mean by ‘planning’. This is even more important given that there is no definitive legal or policy definition of planning. Instead, phrases such as ‘land use planning’, ‘town planning’ and ‘spatial planning’ are often used interchangeably to bewildering effect. Clarity is also important because of the strong private and public sector voices represented in the evidence to the Review who argued for a narrow definition of planning as essentially related to the allocation of land uses. It is also significant that, at the time of writing, it was not clear that the government regarded the planning system as part of environmental law and thus subject to the forthcoming Environment Bill.⁹ This is despite the fact that planning decisions have an enormous impact on the environment, not least in consenting energy infrastructure, mineral extraction workings, and new transport systems.

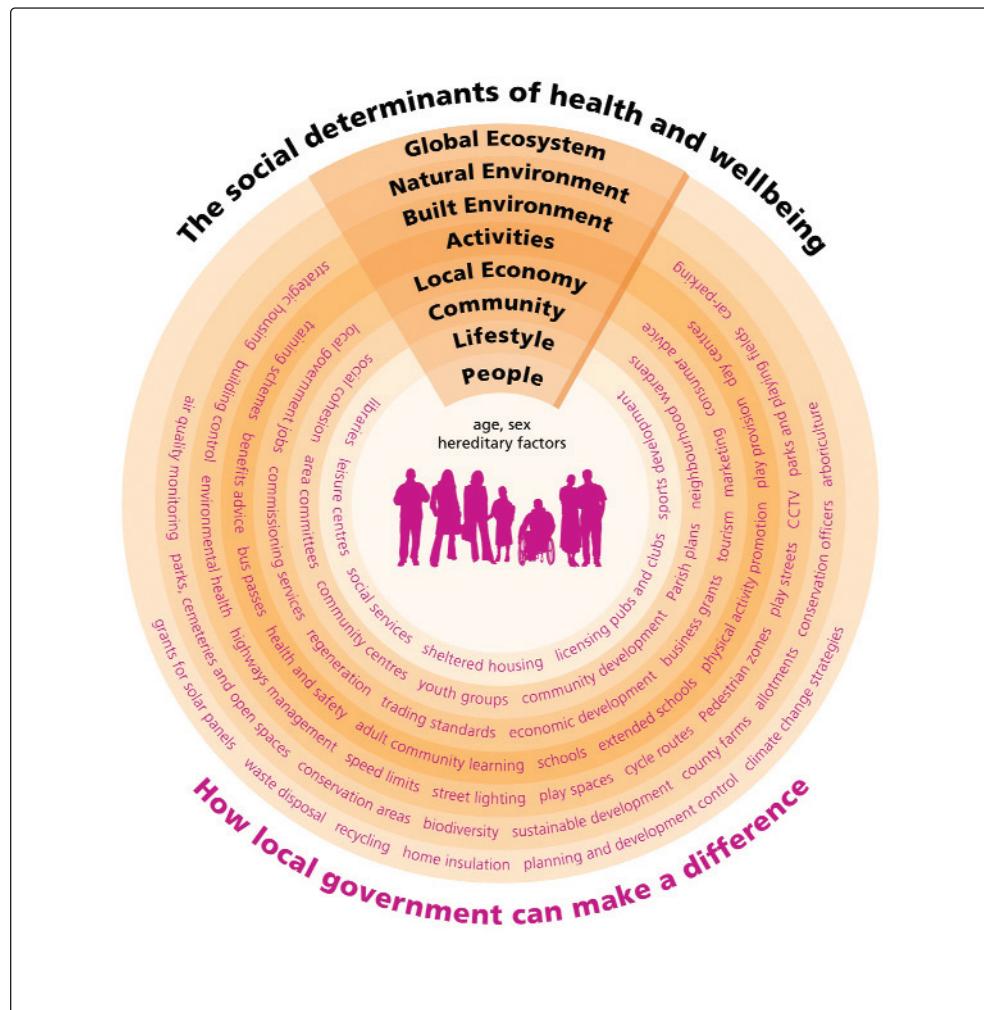
At its most obvious, planning is concerned with how we organise ourselves to meet the challenges we face now and those we expect to face in the future. Planning is a defining feature of human civilisation, allowing us to adapt to change. Our planning judgements, for better or worse, define the shape of our future. ‘Town and country planning’ is how we apply that simple idea to the development of our communities. So far, so good – except that from the beginning of the town planning system the idea of ‘development’ went beyond the simple physical change to land and buildings.

From its earliest manifestations in the late 19th century, planning sought solutions to the consequences of insanitary and inappropriate development such as slum housing in the growing industrial cities. There was a clear recognition that ‘physical’ decisions have a profound impact on people’s lives, from their mental health to access to work. This is not an ideological

Note

9 The government is committed by the European Union (Withdrawal) Act 2018 to producing a draft Environment Bill by December 2018





The social determinants of health and wellbeing

Source: *The Social Determinants of Health and the Role of Local Government*. Local Government Association, Feb. 2010

conclusion, but one now supported by a wealth of robust evidence.¹⁰

As a result, the job of planning is people centred, complicated and multi-disciplinary. It has to be concerned with everything that makes a successful place, from cracks in the paving to national energy systems. It has to be able to draw together differing agendas and groups to think creatively about solutions and negotiate between differing agendas. It must be aspirational but practical and, because the built

environment lasts for generations and natural assets are precious, planning must be able to think about these matters over the long term. Planning must also deal with the reality of the geography of the nation, from travel-to-work areas to flood plains, from the landscape scale to habitat protection. It must deal with everything from the detailed design of buildings to national infrastructure. In short, it involves a broad set of issues around the interaction of people and the built and natural environment. **To be effective it has to be much more than a numbers game.**

Note

- 10 *Spatial Planning for Health: An Evidence Resource for Planning and Designing Healthier Places*. Public Health England, Jun. 2017. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/729727/spatial_planning_for_health.pdf

Planning has one further vital aspect: it operates in a democratic framework to achieve outcomes in the wider public interest in ways which ensure that the public have a say in the decisions that affect them. It is in every way a people-centred activity which involves the messy job of mediating change in complex environments. Given that a strand of the evidence presented to the Review argued that the system would be much more efficient if it were *not* democratic, it is important to make clear that the Review assumed that democratic accountability remains an essential part of the planning project. **Suggesting that the future physical form of urban and rural society should be determined without reference to the people who currently – and who will in the future – live in it is simply incompatible with the basic principles of democracy.** The task of the Review was, therefore, to address the problems and frustrations experienced in the current forms of accountability, rather than to challenge their existence.

For these reasons the Review has not restricted itself to questions solely based on land use but has taken a wider view of the planning project. In the context of a system which has the potential to have a dramatic impact on people's lives, it was also logical to examine what the purpose of that system should be – hence the interest in the argument between the merits of a 'growth-led' system compared with one focused on sustainable development. Neither could the Review restrict itself to the statutory town and country planning system, since English planning operates through multiple legal frameworks, including a separate national infrastructure regime.

In the rest of this Final Report the intention is to use the word 'planning' to refer to the broad endeavour of shaping new and renewed places set out above. We use 'statutory planning' to refer to the current legal framework in England.

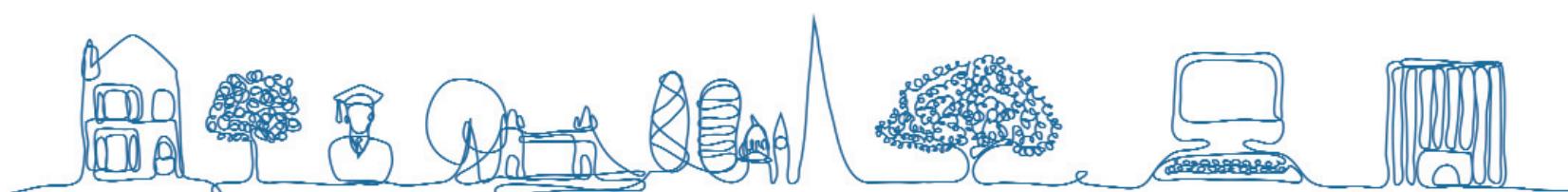
Who are the key players in planning?

The planning and development process involves a number of key players, from landowners and developers to communities and campaign groups and the agencies of local and central government. One challenge for any review of planning is that these sectors are very diverse, and often interrelate in complex ways. Private sector planning consultants will routinely conduct major policy and design work for the public sector, and a very great deal of collective planning expertise is now concentrated in these practices.

Some private sector developers are sophisticated players and can 'game' the planning system to their own advantage, supported by layers of expert professional advice. Others struggle to engage with the system at all, and will do so only when it has a very direct impact upon them. The needs of a small manufacturing business expanding a factory could not be more different from those of a private sector land-trader. As a result, great care is needed in generalising about the needs of the 'private sector'.

In the same way, blanket descriptions of the 'public' or 'community' can mask the diverse and sometimes competing needs and aspirations of complex social groups.

This complexity implies caution in any blanket assessment of the needs or views of the differing sectors.



Section 3

Clearing the ground – why do we have a planning system; and what lessons can we learn from earlier reviews?

Providing a summary of why we have a planning system in England is challenging because of the mythology which surrounds all aspects of the system. This has caused two problems.

The first is short term and relates to the way in which successive governments have chosen to apply the evidence of the system's performance in framing the extensive planning reform of recent years. Reform has often been founded on partial evidence – for example evidence of the administrative costs of planning without any systematic attempt to quantify its benefits. The conclusion that a particular solution – such as abolishing regional planning, for example – would improve the system has not been supported by systematic evidence. The second aspect is long term and stems from entrenched perceptions of planning as 'socialist', 'centralised', 'technocratic', the 'enemy of enterprise', and 'out of touch'. While many people are angry about the outcomes of planning, most of these allegations have no basis in the evidence and get in the way of a sensible debate about the future of planning.

The task of addressing these misconceptions is an important first step in understanding the potential benefits of a new system. For example, if we accept

that a free market in the development of housing is a sufficient basis for future place-making, then the role of planning becomes a residual one. This was a core assumption of many of the recent reviews of planning. Planning control was identified as a problem because it was assumed, rather than being concluded from a specific and balanced supporting evidence base, that intervention in the market was intrinsically anti-competitive.¹¹ This Section provides a short history of the development of planning, as well as the rationale behind the 1947 planning system and its key principles. It then charts the fate of post-war planning, including the major policy and legal changes that have taken place over the last 50 years.

One of the many myths used to justify current reforms is that the 1947 planning framework was a centralised 'Stalinist' experiment which has no relevance in modern society. This is simply wrong. The 1947 system was the culmination of legislation designed to regulate the built environment, which began with very basic public health legislation set out in the Public Health Act 1875. This resulted in the development of millions of by-law terraced houses, but failed to deal with issues of wider environmental and social infrastructure. The by-law system allowed, but did not require, local

Note

11 The clearest example of the selective use of such evidence can be found in Chapter 9 of *Fixing the Foundations: Creating a More Prosperous Nation*. Productivity Plan. Cm 9098. HM Treasury, Jul. 2015.
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/443897/Productivity_Plan_print.pdf





authorities to make fixed rules for ensuring that each home had basic sanitation and that there were minimum plot sizes and road widths.¹² Everything else was left unregulated, and the result was the now familiar industrial terraced house of the late 19th century.

By-laws were a focused tactical response to improve housing standards. They did not deal with wider strategic issues of place-making relating to transport, energy or employment. Some places, such as Leeds, ignored the basic by-law standards and went on allowing the building of 'back-to-back' slum houses up to the 1920s.¹³ Despite the occasional example of private philanthropy, housing for most people in the 19th century was of poor quality, lacking any consideration of community facilities or good design.

The first planning legislation, the Housing, Town Planning, &c. Act 1909, was the product of concern over basic living standards and the wider campaign for high-quality place-making, led by the Garden Cities movement. The DNA of town planning was a complex fusion between these two pragmatic and idealist concerns. This is reflected in debates surrounding the 1909 Act, which sought to promote rational planning and create 'beauty' for everyone.

In common with all the legislation up to 1939, the 1909 Act had two crucial flaws:

- Requirements for plan-making were voluntary; so many places did not prepare plans.
- Local authorities had no way of effectively enforcing their plans because there was no need for landowners to apply for planning permission. To prevent the development of land, a local authority had to pay a landowner full compensation. As Winston Churchill had pointed out in 1909, local authorities also had no way of recouping any of the increase in land values resulting from the provision of transport and energy infrastructure. This 'unearned increment',¹⁴ as Churchill put it, was seen as a basic inequality between a minority of landowners and the wider public interest.

Planning in the inter-war period was marked by some notable successes, particularly the increase in subsidies for public housing¹⁵ and the adoption of demanding housing design requirements which were laid down in 1919,¹⁶ and which, through a number of iterations, remained in force until they were abolished in 1980.

However, the planning system was weak and fragmented and could not deal with the legacy of chronically poor housing conditions;¹⁷ nor could it deal with the

Notes

- 12 The 1848 Public Health Act allowed local authorities to adopt 'by-laws' to regulate basic sanitation
- 13 P Booth: *Controlling Development: Certainty and Discretion in Europe, the USA and Hong Kong*. UCL Press, 1996
- 14 Attributed to a speech given by Churchill at the King's Theatre, Edinburgh on 17 July 1909
- 15 Around 1.1 million council houses were built between the wars, while over 300,000 were demolished in slum clearance programmes (in comparison, in 1967 alone, by which time there had been 20 years of comprehensive planning, there were 380,000 completions, of which 181,000 were council houses)
- 16 *Report of the Committee on Questions of Building Construction in Connection with the Provision of Dwellings for the Working Classes*. Tudor Walters Report. Cd 9191. HMSO, 1918
- 17 There was further planning legislation in 1919, 1923 and 1932, but other than in London it did not result in many examples of successful and comprehensive development plans

expansion of private sector housing, which, particularly in London, had begun to spread along arterial routes.¹⁸ This development aped the standards of public housing but had little or no wider provision for social infrastructure, and was characterised as ‘unco-ordinated urban sprawl’. Efforts to control this began with the Restriction of Ribbon Development Act of 1935 and would culminate in the designation of London’s Green Belt in 1955.

Concern over unco-ordinated growth in the South East was compounded by the rapid and disproportionate decline of northern industrial areas during the early 1930s. The Special Areas Act 1934 had begun to recognise the need for wider action to rebalance the economy and deal with widespread industrial dereliction and contamination in vast areas of the industrial North and Midlands. The government established the Barlow Commission¹⁹ in 1938, which examined the evidence of this decline and argued for a comprehensive, planned response.

Two things are striking about this pre-war record:

- Left predominantly to the market, the development of the built environment for housing and industry resulted in a range of complex market failures, which, by the late 1930s, were having a chronic impact on people’s welfare. The most striking example of this was the poor housing conditions seen in the private rented sector, which, despite some action, remained a problem at the outbreak of the Second World War. This also led to growing economic inefficiencies (for example in relation to transport congestion and the provision of modern business premises).
- The case for intervention was not primarily ideological but a pragmatic response to these problems which commanded wide cross-party and public support.

Notes

18 In the 1930s alone, 2.7 million homes were delivered by the private sector, some by public subsidy. At its highest level in 1936, 250,000 homes were built for owner-occupation, resulting from a combination of cheap credit and low land costs. The majority were built around London, but, even there, by 1939 supply had outstripped demand

19 *Report of the Royal Commission on the Distribution of the Industrial Population*. Barlow Report. Cmd 6153. HMSO, Jan. 1940

20 See, for example, Paul Rotha’s feature-length film *Land of Promise* (1946)

21 *Report of the Committee on Land Utilisation in Rural Areas*. Scott Report. Cmd 6378. HMSO, 1942

22 *Final Report of the Expert Committee on Compensation and Betterment*. Uthwatt Report. Cmd 6386. HMSO, 1941

23 *Final Report of the New Towns Committee*. Reith Report. Cmd 6876. HMSO, 1946

The post-war planning settlement

The wartime experiences of strategic planning, a need for large-scale reconstruction and wider political imperatives to sustain the morale of what was a ‘citizens’ army’ each helped to bring about the 1947 planning system. This was a special, political context in which there was an acknowledgment of the legitimate role of the state in the development of land, a consensus which has not applied for 40 years. The wider civil society debate on planning was also vibrant and encouraged by high-profile public campaigns on planning and housing, led by leading wartime figures such as JB Priestley and the actor John Mills, and by a dynamic and respected planning movement whose advocacy of a better society was expressed as much through cinema²⁰ as through technical reports.

The technical case for planning was nonetheless impressive. The publication of the Barlow Report (and the two accompanying minority reports) in 1940, which recommended a national plan, was supplemented by the Scott Report²¹ on land utilisation and the Uthwatt Report²² on compensation and betterment. Lord Reith was commissioned to examine the establishment and development of New Towns.²³ The chairs of the committees producing these reports and studies were in every sense conservative, and produced practical assessments of the economic and legal challenges of effective planning. While the Barlow Report was commissioned by the pre-war Conservative administration, both the Scott and Uthwatt committees were initiated by the wartime coalition government led by Churchill, and they informed the 1944 White Paper *The Control of Land Use*, which set an ambitious agenda for effective planning.

The core justification for the 1947 planning system

The case for effective planning was not limited to technical planning reports; it was a mainstream part of the wider construction of the welfare state and featured strongly in the 1942 Beveridge Report,²⁴ reflecting the wider consensus on the case for planning based on welfare economics. Land is a special kind of commodity: it is finite, fixed in space, and diverse in character. Land is also a primary factor of production, upon which diverse activities – from housing to food production – rest. The outcomes of the development of land produce complex externalities, including potentially severe impacts on the welfare of people. These externalities cannot be completely internalised by the market and, in relation to land, lead to the inefficient allocation of resources.

In 1939, these externalities were all too visible, from vast industrial dereliction²⁵ to slum housing and poor infrastructure. In economic terms, land, and some of its major outputs, such as healthy environments, had significant public-good characteristics, and it followed that the state should have a significant role in the control and development of land.

The core principles of the 1947 planning system

The ‘1947 planning system’ is shorthand for a range of measures which, taken together, formed the basis for land management in the immediate post-war era. As well as the designation of National Parks,²⁶ the system was framed with both positive, large-scale place-making powers, embodied in the 1946 New Towns Act, and powers for more local control and positive planning, set out in the Town and Country Planning Act 1947. Both measures were intended to be delivered as a package, but there was an implicit understanding that the 1946 Act was designed to deal with major population changes

such as the decentralisation of population in the South East and industrial renewal in the North. There were also powers for the restriction and positive promotion of industrial development through the Distribution of Industry Act 1945. Complex though this now seems, it created a system capable of fulfilling the social, environmental and economic objectives of reconstruction and long-term land management. Even though the record of delivery was soon to be challenged, there was a logic and clarity to the structure of the system which has never been matched. There were seven foundational elements to the 1947 system:

- **Comprehensive control of land use:** All land was to be subject to control, but from the beginning there were exceptions for agriculture and forestry, which were tightly controlled through other policies. Certain classes of minor household building were also permitted developments and did not require planning permission.
- **Nationalisation of development rights:** Landowners lost the right to develop their land. They could enjoy the existing use, and those whose land was about to be developed could apply for one-off compensation. The development of land for a new use required an application for planning permission. To offset the loss of these rights, an appeal system was established which gave applicants – but not the community – the right to have refusal tested by the Planning Inspectorate.
- **Comprehensive land taxation:** The 1947 system taxed the increase in land values which accrued at the grant of planning permission at 100%. The money thus raised was to accrue to a Central Land Board to be used for housing and infrastructure development.
- **Local accountability:** Despite a debate at the time over whether to give power to the Central Land

Notes

24 *Social Insurance and Allied Services*. Beveridge Report. Cmd 6404. HMSO, 1942

25 The scale of this problem in areas such as the North East and the West Midlands was breathtaking

26 Through the National Parks and Access to the Countryside Act 1949

Board, the functions of local plan-making and development control were given to local government. This forever welded the fate of planning to the wider fate of local government powers, finances and boundary reforms. Significantly, the 1947 system gave planning to county councils and county boroughs. This reduced the number of planning authorities set up under pre-war legislation by 90%, to around 145 (less than half the number we have now). Citizens were also given direct rights to object to plans and planning applications, and in practice had the right to appear before planning inspectors at the examination of Local Plans.

■ **Discretionary decision-making:** Unlike the majority of international planning systems, particularly those in the USA, the 1947 system was discretionary rather than zonal. The plan was the basis for decision-making, but it did not determine the final outcomes. Planners and politicians used their discretion to balance the provisions of the plan with other material considerations to reach a decision. There are many forms of 'zonal plan' in the USA, Europe and beyond but they offer less discretion to the decision-maker: in the USA, development that meets the requirements of zonal ordinances will be permitted and those that do not will be refused. Both systems have significant drawbacks, but the 1947 system was designed to be more flexible and allow for the professional judgement of planners and the political input of politicians. All of the arguments about the status of the 'plan-led' system stem from the decision to adopt a discretionary system. It is significant that recent reforms have tried to introduce zonal planning measures into an essentially discretionary system.

■ **Central supervision:** The 1947 Act was accompanied by the creation of a new government department in which a Secretary of State had extensive reserve powers over the planning system. In the case of New Towns these powers were clear, but for the

rest of town planning they created an uncomfortable ongoing relationship over the degree to which central government should intervene over policy and practice.

■ **The use of Development Corporations:** The system assumed the use of New Town Development Corporations for large-scale growth to deal with major demographic change, using the powers of the New Towns Act 1946.

It is also worth noting that all this legislation assumed a wider acceptance of the social objectives of planning, which were extensively articulated by Ministers but never found expression in legislation.

Did the system work?

One of the striking aspects of the English planning system has been the near-constant level of change that the system has been subject to. The 1947 system was operational for six years before major reform in 1954²⁷ removed the 'betterment' provisions by abolishing the development charge. New Towns legislation survived intact longer, but major legal changes to the Compensation Code in 1959 made it much harder for both local authorities and Development Corporations to purchase land at its current-use value.

By the end of the 1950s, betterment values, which had been the property of the state, had effectively been given back to landowners, while the state control of land remained in place. This was to have long-term implications for land speculation and the ability of the public sector to lead development in the same way as many European municipalities. None of these changes were based on evidential reviews of the system, but instead stemmed from very powerful lobbying by those representing the interests of landowners, whose case was strengthened by the unreasonableness of a betterment tax set at 100%.²⁸

Notes

27 Through the Town and Country Planning Act 1954

28 The Uthwatt Report had recommended 75%

Despite these changes, in the two decades after the regime came into force there was outstanding success in housing and place-making, in conservation and the environment, and in the growth of knowledge and expertise in planning. The 1947 planning system oversaw the greatest level of housebuilding in the history of the nation, and, while there were other powerful reasons for this success, the 1947 settlement facilitated this growth with an unprecedented concern for co-ordination and design, including the provision of 32 new, large-scale communities. There were also key problems:

- There was a lack of strategic and national planning in England. Despite the powers to enable voluntary joint planning committees, co-operation between local planning authorities was rare.
- The rate of plan formulation was patchy and very slow.
- Plans were not kept up to date and were of variable quality and content.
- At the national departmental level, there was a lack of co-ordination between town planning and other ministries such as those for transport and the economy.
- By the early 1960s there was a growing concern that there was a disconnect between planning and people.
- There was unresolved debate about the appropriate skills of planners between – crudely – technical, legal and procedural skills and ‘softer’ people skills, including those framed by the social sciences.
- There was a linked and growing concern about the fate of the historic environment, which led to the Civic Amenities Act of 1967, enabling the designation of Conservation Areas.

Lessons from previous reviews of the planning system

Concerns over the operation and outcomes of the 1947 planning system began to emerge in earnest with the report of the Planning Advisory Group (PAG),²⁹ published in 1965. PAG focused primarily on the effectiveness

of development plans, leading to the reforms of 1968, which framed the Structure Plan and Local Plan system, which lasted until 2004. One legacy of this period was the fragmentation of planning responsibilities between the different tiers of English local authorities.

The 1968 reforms assumed the introduction of unitary local government, with both Structure and Local Plans being prepared *by the same body*. This was predicated on the conclusions of the Redcliffe-Maud Commission on the reorganisation of local government, but its recommendations were never fully implemented. Instead, the 1972 Local Government Act created the dual system of unitary and two-tier counties and districts, and split planning functions between them, giving Structure Plans to county councils and development management and Local Plans to district councils.³⁰ This broke the institutional logic and simplicity of the 1947 system, a situation which has never been resolved (see Box 1 on the structure of local government today, on the next page).

The first major review of development management was undertaken by Dobry³¹ in 1975. It is significant that both the Dobry and PAG reports essentially took the core public interest objectives of planning as read and proceeded to propose procedural changes to the system.

There are some striking common features of these past reviews:

- They focused on key aspects of planning procedure but were not reviews of the system in the round.
- They were concerned primarily with ‘speeding up the system’ and administrative efficiency.
- They accepted that democratic planning in the public interest was a given and did not examine the outcomes of planning.
- They produced, on the whole, highly procedural responses to ‘fixing’ the system.

Notes

29 *The Future of Development Plans*. Report of the Planning Advisory Group. HMSO, 1965

30 County councils kept development control powers on waste and minerals

31 G Dobry: *Review of the Development Control System: Final Report*. Department of the Environment, Feb. 1975

Box 1 The structure of local government

England outside London

Much of England now has a single tier of local government, but many areas have two tiers. In the six metropolitan areas (Tyne and Wear, West Midlands, Merseyside, Greater Manchester, West Yorkshire, and South Yorkshire), county councils were abolished in 1974 and local government takes the form of 36 metropolitan district councils, most of which have a population of over 200,000. Elsewhere in England there are 55 unitary authorities, most of which have a population of between 100,000 and 300,000 people. In the remainder of the country local government takes the form of 27 county councils; and, within those counties, 201 district councils, most of which have a population in the range 60,000-100,000 people. There are 32 London boroughs. There is no current intention to carry out any further reorganisation of local government in England. In some of the metropolitan districts and most of the non-metropolitan districts, there are elected parish councils (about 8,000 in total) with limited functions.

London

The Greater London Authority, comprising a directly elected Mayor and an elected Assembly, assumed its responsibilities in July 2000. The 32 London boroughs retain their responsibilities. The Corporation of London is the local authority for the City of London.

The 1969 Skeffington Report³² was an exception to this pattern. Skeffington focused overwhelmingly on public participation in the system (see Fig. 1), reflecting the growing desire for direct community participation in planning in a context in which major decisions on urban renewal were seen to have marginalised the voice of communities. It is significant that, while there have been repeat reviews of planning procedure, there has never been a repeat of Skeffington. The last specific government-sponsored study on people and planning was an attitudinal survey undertaken in 1995. Despite significant changes in public attitudes and the nature of society, government has not sought to comprehensively understand the views of the key end-users of the planning system: the wider public.

Much of the analysis and recommendations contained within these reports relate closely to contemporary debates on the system, but, on the whole, there is very low awareness among contemporary policy-makers of the lessons of past reforms. Each of the reviews resulted in legal and policy changes from government and reflected increasing concerns surrounding economic

performance. However, the literature is clear that the system was dominated as much by legal judgements as it was by policy. The meaning of materiality, the weight of the development plan and the discretion of elected members each produced reams of important case law.³³ This was a perfectly legitimate function of the courts, but it led to some unintended consequences which remain unresolved to this day – not least the scope of elected members to act politically in planning decisions.

While there were major changes to planning policy objectives in the 1980s, there were no major government reviews of the system, although there were radical policy changes. The Nuffield Report³⁴ of 1986 was the result of an independent examination of the system and proposed some procedural change. It also noted that there was a wider decline in consensus on the objectives of planning and a fragmentation of public attitudes. The Nuffield Report remains perhaps the most complete review of the system, although it consciously left out betterment taxation. The 1989 Carnwath Report³⁵ was again a focused investigation, this time on planning enforcement procedures.

Notes

32 *People and Planning: Report of the Committee on Public Participation in Planning*. Skeffington Report. HMSO, 1969

33 P McAuslan: *The Ideologies of Planning Law*. Pergamon Press, 1980

34 *Town and Country Planning*. Flowers Report. Nuffield Commission of Inquiry. Nuffield Foundation, 1986

35 R Carnwath: *Enforcing Planning Control*. HMSO, 1989

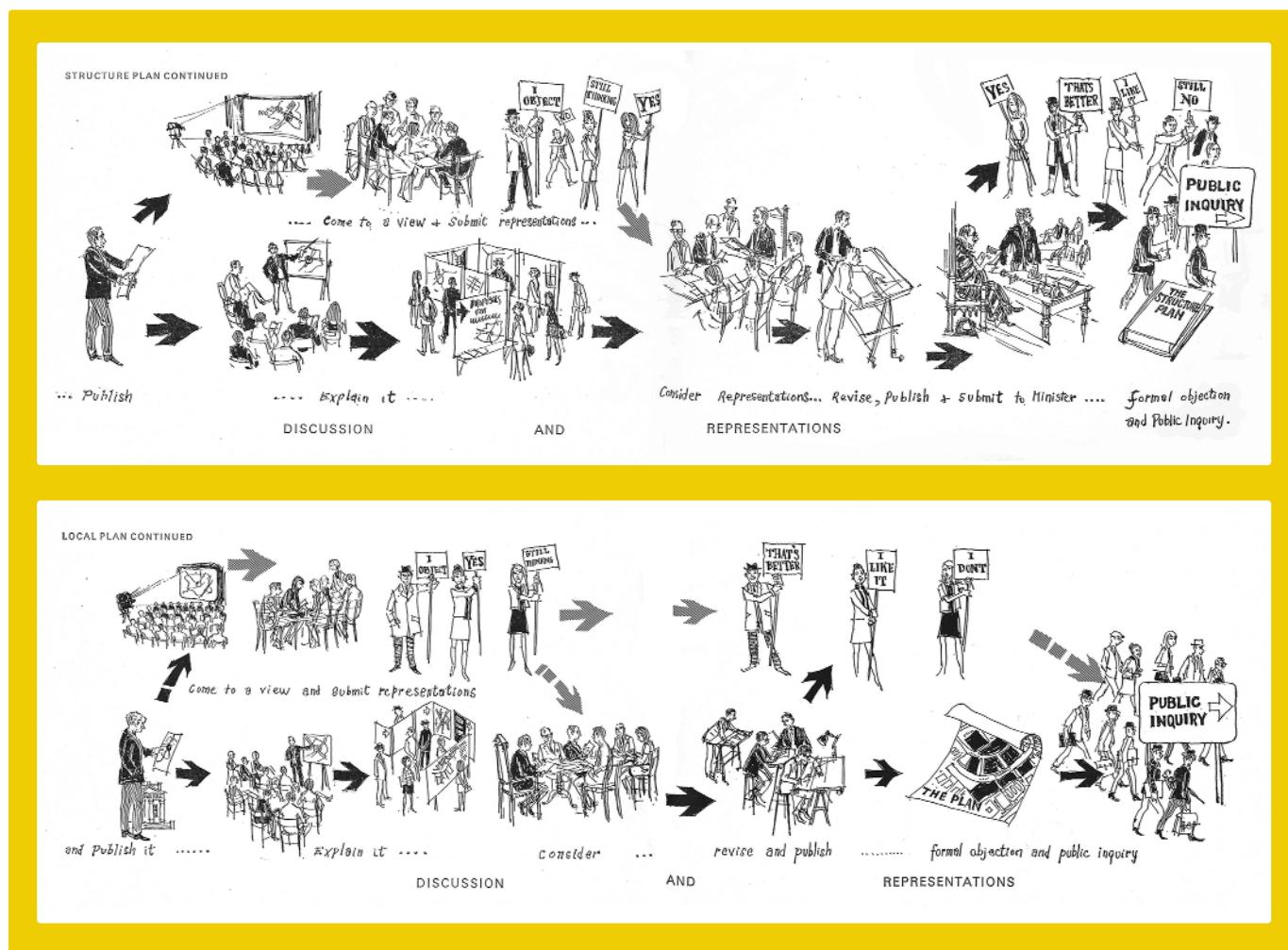


Fig. 1 Participation strategies as illustrated in the Skeffington Report

The 1990s were marked by growing concerns over probity in decision-making, following a series of high-profile corruption cases in local government. The Nolan Report³⁶ of 1997 was commissioned to address these concerns. Although widely taken as restricting politicians' remit, Nolan explicitly recognised their political function but tried to bind these functions with codes of conduct to limit behaviour which had no legal or ethical connection with a planning decision (such as acting on family loyalties).

During the last 20 years, reviews of planning have changed in character in two important ways:

- First, rather than looking at aspects of the planning process such as plan-making, the terms of reference

of the reviews have focused on the system's ability to achieve one primary outcome, namely the provision of housing units. The Barker Reviews³⁷ of housing supply and planning (2004 and 2006) reflected this imperative and were commissioned by HM Treasury.

- Second, these contemporary reviews have been undertaken with much more limited resources and timescales and so have involved fewer voices from the wider public and the planning community.

The tight focus of these reviews reflected an assumption by powerful departments such as HM Treasury that planning was intrinsically 'anti-competitive'. As a result, while historical reviews began by accepting a role for

Notes

- 36 *Standards in Public Life: Standards of Conduct in Local Government in England, Scotland and Wales. Third Report of the Committee on Standards in Public Life*. Cm 3702-I. HMSO, Jul. 1997.
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/336864/3rdInquiryReport.pdf
- 37 *Delivering Stability: Securing Our Future Housing Needs. Review of Housing Supply. Final Report – Recommendations*. HMSO, Mar. 2004. Available at http://news.bbc.co.uk/nol/shared/bsp/hi/pdfs/17_03_04_barker_review.pdf; and *The Barker Review of Land Use Planning: Final Report – Recommendations*. HMSO, Dec. 2006.
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/228605/0118404857.pdf

democratic planning in the public interest to modify market behaviour, these contemporary reviews did not work from that foundation. If the core ‘exam question’ of previous reviews had been how the system should operate democratically for a range of users, the new exam question was focused on how the system should work for the promoters of development. There are significant consequences of applying such preconceptions when reviewing the planning system:

- People’s involvement in planning is no longer characterised as due process but as ‘delay’. This has been a major watchword in the reform of planning, but none of the reviews of the last 20 years have defined what ‘delay’ means or how ‘unreasonable delay’ can be distinguished from the exercise of legitimate community rights.
- In order to cast planning as anti-competitive it is also necessary to use a highly selective evidence base. So, while there is limited evidence of, for example, the transaction costs of planning,³⁸ none of the reviews accepted that planning offered monetarised financial benefits in delivering wider public goods. At no point was this basic cost/benefit equation ever populated with benefits. As a result, the reform of planning has lacked the logic of a balanced evidence base and the transparency of clearly established objectives.

Even with this operational context, significant reviews such as those led by Kate Barker have endorsed the need for a spatial planning system which recognises democracy and the wider public interest. It is true, however, that they often accepted a dominant role for market values in all aspects of the planning framework.

The latest reviews of planning have tended to accept this position and have returned to a highly procedural view of the system, designed to assist applicants. The Local Plans Expert Group (LPEG) report³⁹ is an example of this approach in relation to development plans. While many of the LPEG recommendations dealt with the management of the development plan process, the report went so far as to suggest the removal of the public right to be heard in the examination of development plans, on the grounds that this would speed up the preparation of plans and save costs. The Letwin Review,⁴⁰ focused on build-out rates, is the latest review with a specific rather than holistic remit and has explored how housing delivery rates can be increased. It is significant that some of the recommendations echoed the need for a stronger role for local government and more effective betterment taxation, discussed in Sections 5 and 6 below.

It is worth noting that there has also been a series of important parliamentary inquiries on planning issues,⁴¹ but no inquiry has examined the system in the round. The exception to this rule is the Royal Commission on Environmental Pollution’s 23rd Report, *Environmental Planning*, published in 2002.⁴² Of all the reviews of planning carried out over the last 30 years, this was the most rigorous and insightful. The recommendations remain useful, even if, in retrospect, the report’s focus on making a system fit primarily to respond to the environmental challenges facing society limited its scope. It is interesting to note that the report summarised the institutional structures of planning as they were in 2002, and that this picture is now significantly more complex after the impact of a decade and a half of both planning reform and the devolution agenda.

Notes

- 38 P Cheshire, C Hilber and I Kaplanis: *Land Use Regulation and Productivity – Land Matters: Evidence from a UK Supermarket Chain*. SERC Discussion Paper 138. Spatial Economics Research Centre, London School of Economics, Aug. 2013. <http://www.spatialeconomics.ac.uk/textonly/SERC/publications/download/sercdp0138.pdf>; and M Ball, P Allmendinger and C Hughes: ‘Housing supply and planning delay in the South of England’. *Journal of European Real Estate Research*, 2009, Vol. 2 (2), 151-69
- 39 *Local Plans: Report to the Communities Secretary and to the Minister of Housing and Planning*. Local Plans Expert Group, Mar. 2016. <https://www.gov.uk/government/publications/local-plans-expert-group-report-to-the-secretary-of-state>
- 40 *Independent Review of Build Out Rates: Draft Analysis*. Letwin Review, Jun. 2018. <https://www.gov.uk/government/publications/independent-review-of-build-out-draft-analysis>
- 41 For example, the House of Commons Communities and Local Government Committee inquiries into the National Planning Policy Framework in 2014 and 2016
- 42 *Environmental Planning*. Twenty-third Report. Royal Commission on Environmental Pollution, Mar. 2002. <http://webarchive.nationalarchives.gov.uk/20070202120000/http://www.rcep.org.uk/epreport.htm>

Conclusions

Any summary of formal reviews of the system may tend to underplay other important forces that have shaped planning, such as the rise and fall of how people regard the professional planner, the rise of community protest, the retrenchment of local government, and the broader fate of the planning academy and of planning education. **Above all there has, for over 40 years, been political ‘vilification’ of the planning process in mainstream political discourse of England.** It has become fashionable to blame planning for a multitude of problems, many of which actually stem from a lack of investment and a lack of political vision. The act of making plans forces us to face up to responsibilities which can be unpopular. The failure to plan at both the national and local levels is not simply the fault of the planner, but the result of a political desire not to confront hard decisions. This applies equally to some local authorities as it does to central government’s approach to, for example, the location of new national airport capacity.

With these other factors in mind, there are some headline lessons which flow out of this historical experience and are significant in the case for further reform:

- The broader civil society consensus around the need for planning has fragmented, and many people are simply unclear about what the system is for. While the objectives of the 1947 planning system were clear and ambitious, the legislation emphasised process and assumed a political consensus on the purpose of planning. This lack of a consistent and clear statutory purpose for planning has not helped encourage public understanding.
- The case for planning was founded on two primary factors: first, that land is a public good and an unregulated market tends to produce at best only partial benefits and at worst unsatisfactory or poor

outcomes both for people’s personal welfare and the environment and for the economic efficiency of society; and, second, the positive desire to create high-quality environments to promote health and happiness in society. Neither of these two assumptions appear to have underpinned recent planning reform.

Beneath these broad trends are some perennial issues which reforms have consistently struggled to resolve:

- the structure, content and format of the development plan;
- the status of the development plan and the balance between discretionary and zonal planning systems;
- the institutional framework for planning, and particularly the fragmentation of responsibilities between parts of national and local government and their agencies;
- the failure to agree on a statutory strategic planning system, and the failure of voluntary approaches;
- the lack of a consistent approach to national planning;
- the post-1979 assumption that local planning could manage major demographic change without the use of the New Towns approach;
- the continuing tension between central direction, local direction and community participation, with local planning authority powers subject to more control by the centre now than at any time since the Second World War;
- the failure to deal with the betterment and land tax question in a way that commands lasting political consensus, and the reliance now on ad hoc, confused and often regressive mechanisms through Section 106 agreements and the Community Infrastructure Levy; and
- the strong tendency for reforms to replace systems before they have had a chance to bed down – this is a striking and growing reality, with planning reform now being a ‘continuous revolution’.



Section 4

The 2018 English planning system



There's a lot of expertise on the different bits of the system, but I'm not sure anyone understands how the hell it's meant to work overall.

Private sector planning consultant

Setting out the structure and policy of contemporary English planning is like hitting a moving target because of the continuous and ongoing changes to the system. While reform has always been a feature of English planning, the pace of change intensified after 2004,

when new legislation recast the system from Structure and Local Plans to Local Development Frameworks and statutory Regional Spatial Strategies. This system had less than five years of implementation before the coalition government signalled its abolition, secured in

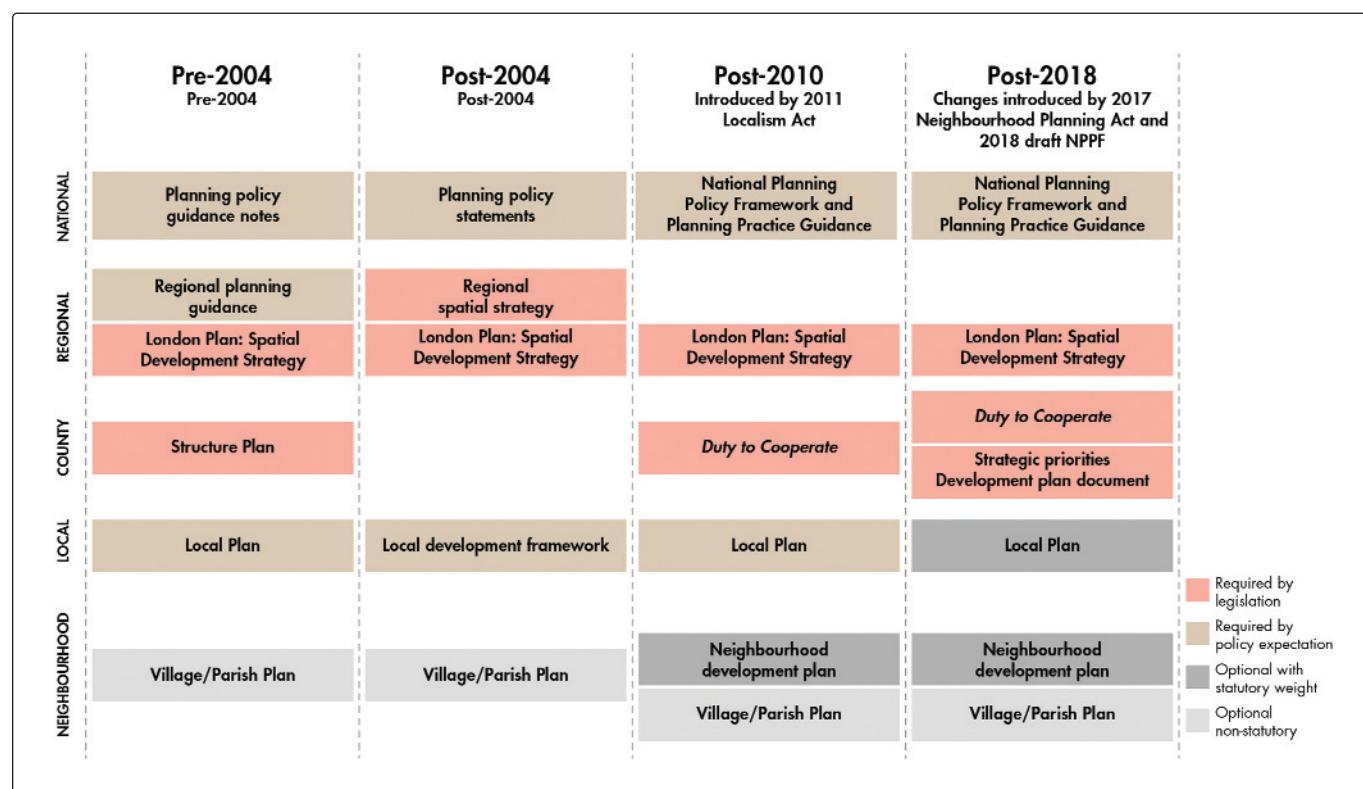


Fig. 2 Development planning frameworks in England over the last 15 years



the 2011 Localism Act, which also introduced neighbourhood planning. The 2017 Neighbourhood Planning Act, together with the 2018 revised National Planning Policy Framework, set out a new development planning system with a distinctive strategic layer but no longer a policy presumption for the preparation of a Local Plan with detailed non-strategic policy. England has been subject to four different development plan frameworks in the past 15 years (see Fig. 2 on the preceding page).

Whatever the merits of each system, the rate of change has intensified to the point where new systems are abolished before there has been a realistic period in which to assess their performance. This has had a major impact on Local Plan preparation, with many local planning authorities not managing to see through one cycle of plan-making before the system was subject to major change. As one private sector planning consultant noted: ***'We have seen a mess of saved policies, abandoned processes, botched compromises and the adoption of plans already past their sell-by date. There has not been consistent implementation to assess.'*** This intensity of change has also reinforced a sense of incrementalism, which makes it hard to assess the wider planning framework when there are such significant changes to policy, guidance and secondary legislation. However, this Section sets out a brief description of the system as it stands in October 2018, while acknowledging that the system may well have changed significantly by the time of the publication of this Final Report in November.

Key reforms that have framed the 2018 system

The following list highlights just a few of the key reforms which together have contributed to the 2018 system (a more comprehensive list is set out in Annex 2):

- **1999:** The Greater London Authority Act established a new framework of planning powers for London, incorporating a strategic element which survived the end of regional planning in the rest of England in 2011. However, how London engages effectively with the rest of its city region remains a key issue.

- **2004:** The Planning and Compulsory Purchase Act abolished Structure Plans and introduced statutory regional plans (Regional Spatial Strategies) and Local Development Frameworks. The Act retained the split of planning functions in two-tier local authority areas. The intention was that regional plans would become accountable through Regional Assemblies, but this part of the package failed. **Statutory regional planning had an effective life of five years.**
- **2008:** The Planning Act introduced the Nationally Significant Infrastructure Projects (NSIPs) regime in the form of Development Consent Orders. The Infrastructure Planning Commission was operational for three years before being abolished in 2011, with its functions being transferred to the Planning Inspectorate.
- **2010:** Following the change in government there was the widespread abolition of bodies supporting the planning endeavour in England, such as the Sustainable Development Commission, the Royal Commission on Environmental Pollution, and the National Housing and Planning Advice Unit.
- **2011:** The Localism Act signalled the formal abolition of regional plans and reintroduced the Local Plan format. The Act created Neighbourhood Plans as a formal part of the development framework. Other secondary legislation ‘temporarily’ relaxed permitted development rights on the conversion of rural buildings and commercial and office space to residential use, with a ‘light-touch’ prior-approval process.
- **2012:** Planning Policy Statements and all other technical guidance were repealed and replaced by the National Planning Policy Framework (NPPF). The NPPF introduced a ‘presumption in favour of sustainable development’, framed using unprecedented language to make the ‘proving of harm that might result from a development’ much more onerous. The impact of the NPPF is discussed in more detail later in this Report, but a number of serious tensions have emerged between the presumption in favour of development and the statutory obligation for a plan-led system. The NPPF viability test also effectively enabled developers to challenge local policy which compromised their development profit.

- **2015:** The National Infrastructure Commission was established as a non-ministerial government department under HM Treasury, responsible for providing expert advice to HM Government on the pressing infrastructure challenges facing the UK.
- **2016:** The Housing and Planning Act introduced ‘permission in principle’, brownfield registers, and further secondary legislation confirming the permanent relaxation of permitted development rights.
- **2016:** New provisions brought about by the Housing and Planning Act 2016 expanded the definition of an NSIP to include an element of housing. Other changes gave more power to the NSIPs regime over major leisure development but handed back power over onshore wind of capacity above 50 megawatts to local authorities.
- **2017:** The Housing White Paper signalled the government’s intention to relax the requirement for a detailed Local Plan.
- **2017:** The Neighbourhood Planning Act strengthened the weight of Neighbourhood Plans, introduced changes to compulsory purchase, enabled the formation of locally led New Town Development Corporations, and introduced a new legal requirement on local planning authorities to set out their strategic priorities based upon the limited issues set out in paragraph 20 of the 2018 NPPF.
- **2017:** The Budget Statement announced further deregulation of permitted development rights to allow commercial buildings to be demolished and rebuilt as housing without the need for planning permission.
- **2018:** Parliament approved the secondary legislation necessary for the implementation of locally led New Town Development Corporations.
- **2018:** The draft replacement NPPF, published for public consultation, clarified the new development plan framework by articulating the legal requirements on local planning authorities to set out strategic priorities, and the consequent need for a strategic plan. It also proposed that other more detailed Local Plans would now be discretionary.
- **2018:** The Letwin Review Interim Report suggested further significant changes to the Compensation Code and the role of public authorities.
- **2018:** The final version of the NPPF, published in July 2018, was vaguer about the shape of the development plan system, but it is now clear that there is no legal requirement to set out ‘non-strategic’ Local Plan policy and no policy requirement to do so. Local planning authorities are free to choose if and how they adopt such policy, including whether this is left to neighbourhood planning.

The increasing pace of ministerial change

The increasing pace of policy change has been matched by the rapid turnover of Ministers with responsibility for housing and planning. Between 1945 and 1960 there were four Housing Ministers, each serving an average of 3.75 years. From 2010 to 2018 there has been eight Ministers, serving on average one year, with the last in post for six months. Such a churn of political leadership has generated its own uncertainty about the direction of the system.

The policy foundation of the 2108 planning system

The NPPF and the online national Planning Practice Guidance resource together set out the government’s objectives for the planning system. The NPPF was first produced in 2012 and revised in 2018. The NPPF is policy and not law, but local planning authorities must have regard to the document when making plans and planning decisions, and so the force of the NPPF is derived through the work of the Planning Inspectorate and the courts. A Local Plan which does not comply with the NPPF policy on a five-year supply of land for housing will be found unsound by the Planning Inspectorate. An appeal in which the local planning authority has failed to demonstrate compliance with the NPPF will normally be upheld in favour of the applicant.

Planning Practice Guidance has almost the same legal status as the NPPF, but changes can be made without consultation, an anomaly which remains the source of some confusion. The policy scope of the NPPF is broad

but is housing focused, and sets out markedly different kinds of policy expression. Some policy is generalised, such as setting out a broad ambition for action on good design. Some policy is highly directive, leaving little room for local discretion on things such as energy and housing. The purpose of the system as set out by the NPPF is to contribute to the achievement of sustainable development.⁴³ The degree to which this is actually the case is explored in Section 5.

The legal foundations of the 2018 planning system

The current town and country planning regime of plans and development management administered by local government has its basis in the 1990 Town and County Planning Act. This much-amended Act, along with the 2004 Planning and Compulsory Purchase Act, sets out (but does not settle) the weight to be afforded to the development plan and the importance of 'other material considerations' framing the discretionary planning system. The national infrastructure regime is set out in the 2008 Planning Act, and between them these two regimes form the principal basis of local and national statutory planning in England.

The town and country planning regime deals with the majority of locally determined planning decisions, while the 2008 Nationally Significant Infrastructure Projects regime deals with major energy, waste and transport infrastructure.

To complicate matters, the clarity of the original 2008 regime has been blurred by expanding the definition of NSIPs to include significant leisure and commercial development and to allow an element of housing. Further amendments removed onshore wind energy projects of more than 50 megawatt capacity and passed them to local authorities for determination under town planning legislation.

The NSIPs regime does not deal with the approval of all national infrastructure, and the biggest scheme, HS2, is being dealt with through a Hybrid Bill, a route traditionally used for railway development, where the rights of the public to test the scheme are limited and the process is essentially unchanged from that used by the Victorians to consent railways.

The NSIPs regime offers a strictly limited role for local government, and there are no rights for the public to be heard or test the evidence in the preparation of the National Policy Statements (NPSs) that guide NSIP development, and which arguably have a greater weight in the decision-making process than the status of the development plan in local decisions. While some of the NPSs are site specific, others are not. NPSs are prepared separately by the relevant government department and all operate on different timescales, even when they relate to common issues such as transport infrastructure. The first NPSs are now approaching ten years old and have not yet been revised.⁴⁴

There is a third major element of planning law based around New Town Development Corporations, but these have not been used since the 1970s. Urban Development Corporations (such as that for Ebbsfleet in Kent), which have been used in recent decades, have a different legal basis and are focused on regeneration. Mayoral Development Corporations, based on the Urban Development Corporation model, exist at Old Oak Common and the former Olympics site in London.

The Neighbourhood Planning Act 2017 enabled the creation of locally led New Town Development Corporations where responsibilities shifted from the Secretary of State to local authorities. At the time of writing, the secondary legislation to enable this new framework had been approved but no designation had yet taken place.

Notes

43 See *National Planning Policy Framework*. Ministry of Housing, Communities and Local Government, Aug. 2018, para. 7. <https://www.gov.uk/government/publications/national-planning-policy-framework--2>

44 The first NPSs, on energy, were adopted in July 2011

All this is further complicated by a separate planning structure for Greater London, established by the 1999 Greater London Authority Act, and separate devolution powers enabled by the Local Democracy, Economic Development and Construction Act 2009, as amended by the Cities and Local Government Devolution Act 2016. This latter Act amended the 2009 Act to allow combined authorities to take a wider range of powers and functions and to have directly elected mayors. Each separate combined authority deal is brought into being by a bespoke order made through secondary legislation for individual city regions. Each of the city region deals, which accompany the creation of mayoral powers, is of a different character but can relate to the ability to write strategic plans, control housing and transport investment, and, in some cases, designate Mayoral Development Corporations. None of these deals have the planning powers, organisation or accountability of the Greater London settlement.

EU Directives also play a major part in framing the English planning system, through processes such as Strategic Environmental Assessment (SEA), targets for renewable energy, and protective designations for biodiversity. International agreements such as the Aarhus Convention and the United Nations' Sustainable Development Goals are also important drivers of planning practice, at least in theory.

The complexity of the current system is defined not just by the separate legal frameworks that shape planning, but also by the nature of town planning legislation itself. The town and country planning system is now one of the most complex legal frameworks of any part of English public policy. This is largely unnecessary and stems from the lack of any consolidating planning legislation for 28 years. Given that the system has changed radically in that time – with new forms of planning consent, the abolition and introduction of new tiers of plan-making, and new legal duties – the planning system is hard to navigate, with multiple amendments to primary and secondary legislation.

The institutions of local planning

As Section 3 made clear, the planning system in England sits within a very complex pattern of local government structures. The simplest position is in unitary authorities such as Cornwall, which have control over a full range of planning functions, from minerals to housing. However, unitary counties covering the whole county area are a minority. In most counties one finds a county council, district councils, and in many areas separate unitary councils complicating the pattern. For example, Derbyshire has county, unitary (Derby), district and parish councils.

In London there is division between the Greater London Authority (GLA) and the London boroughs. In two-tier areas, planning for waste, minerals and transport sits with county councils, while all other local planning functions sit with the districts. In the Combined Authority for Greater Manchester, the power to write a strategic plan sits with the Mayor of Greater Manchester but requires the agreement of constituent authorities, and the objectives of the strategic plan have to be adopted in the ten separate Local Plans of each constituent local planning authority if it is to have full force. Some elected Mayors in combined authorities as well as the Mayor of London have the power to designate Mayoral Development Corporations, which have some planning and compulsory purchase powers and are focused on regeneration.

This position reinforces the conclusion that a logical planning system is hard to achieve in the absence of any sense of a logical local government organisation in England. For completeness, it is important to reference the continuing role of Local Enterprise Partnerships (LEPs),⁴⁵ the rise of regional transport bodies, and the differing regional organisations of government agencies such as the Environment Agency and Homes England, all of which fit into the complex 'mosaic' of how England is organised. **It is hard to imagine a more complex and diverse institutional structure in which to try to conduct strategic planning.**

Note

45 There are 38 LEPs in England, each with their own boundaries and each of a differing scale

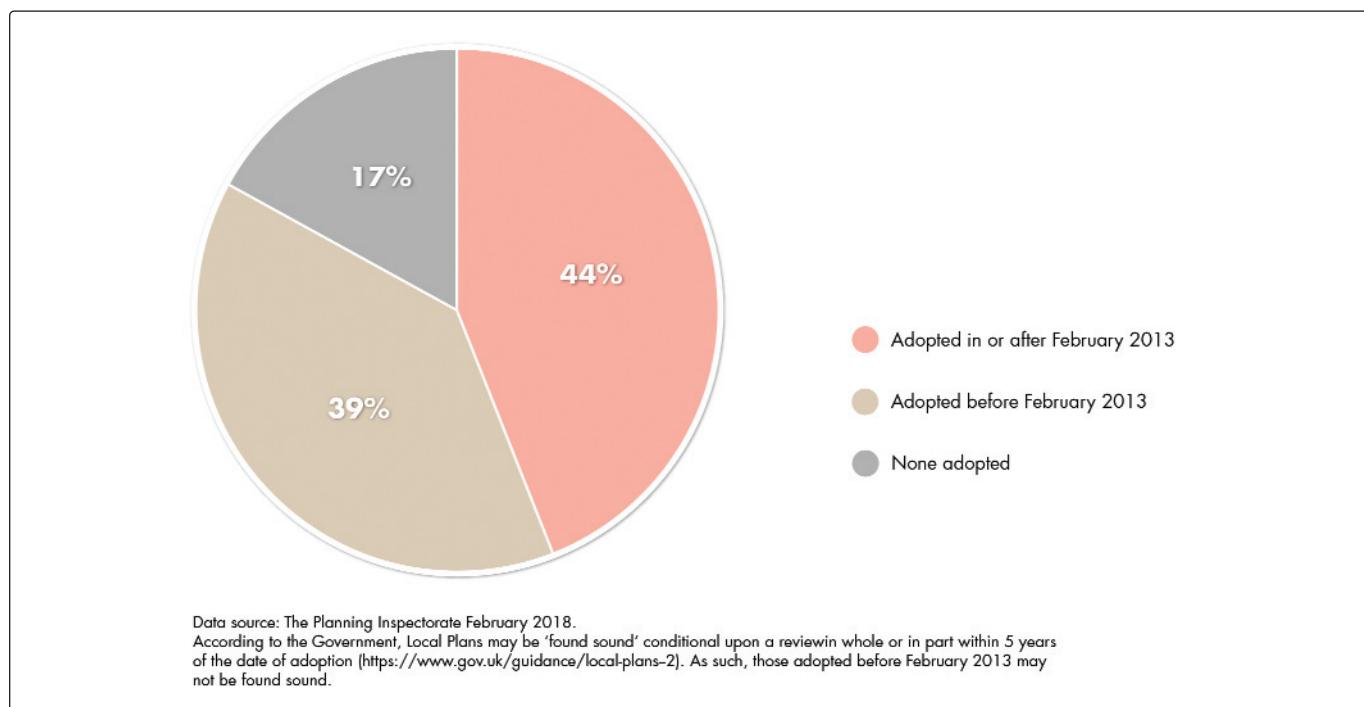


Fig. 3 Progress on preparing Core Strategies

The Local Plan

The 2004 Planning and Compulsory Purchase Act created a more flexible approach to Local Plans, based on Local Development Frameworks and supported by Regional Spatial Strategies. After 2010 there was a move towards a simpler view of the Local Plan as comprising a Core Strategy of key policies and a site allocations document. Some plans combined the two. The rate of plan-making has remained slow, and the reasons for this are explored further in Section 5. Current progress on plan preparation is shown in Fig. 3.

There is now a strong performance requirement regime for plan-making, with, where a plan is judged out of date, a threat not simply of applying the presumption in favour of development, but of the government taking direct control of the plan-making process. While in theory we have a 'plan-led' system, the legal and policy reality is more complex, and is explored in greater detail in Sections 5 and 6.

Local planning authorities are no longer required to report on their overall performance to government through annual monitoring reports. Such reports are prepared locally but their content is highly variable and does not necessarily contain any detailed data on the quality of what has been built. As a result it is hard to get a national picture of the outcomes of the planning system.

The end of the Local Plan?

The revised NPPF published in July 2018 sets out the requirements of a new development plan system for England. The wording has changed from the consultation draft, where it was clear that a detailed Local Plan was no longer a policy requirement but a discretionary opportunity. The government's response to the consultations acknowledged the concerns raised about the potential for this to lead to plans focused only on high-level strategic content and argued that the NPPF final text clarifies the role of the Local Plan. In fact, paragraphs 15 to 22 of the NPPF, which set out the English Local Plan framework, are ambiguous.

In short, local planning authorities will be required, as a minimum, to set out their strategic priorities in a strategic plan covering a small set of high-level issues set out in paragraphs 20 and 21 of the NPPF. The legal requirement for a strategic plan was set out in the 2017 Neighbourhood Planning Act. The non-strategic policy currently contained in Local Plans, as they are now understood, will be discretionary. The NPPF makes clear that Neighbourhood Plans could implement some of the detailed policy currently in Local Plans. Paragraph 18 of the NPPF is the crucial policy, but it is not easy to interpret:

'18. Policies to address non-strategic matters should be included in local plans that contain both strategic and non-strategic policies,



It (the Neighbourhood Plan) has started people talking to each other in the village, and that has to be a good thing

Participant in a rural Neighbourhood Plan

and/or in local or neighbourhood plans that contain just non-strategic policies.'⁴⁶

While this new system has yet to be fully articulated, it has been justified as offering flexibility to local councils. It is, however, a matter of law and policy that local planning authorities **are not** required to express non-strategic policy in any document if they choose not to, nor would they fail a soundness test in plan-making if they simply fulfilled their legal and policy obligation to express high-level strategic policy. This, then, is a new development plan structure for England, but one which has attracted very little public attention or debate.

Permission in principle

The 2016 Housing and Planning Act and other secondary legislation has introduced a new form of development consent known as 'permission in principle' (PiP).

Ministers made it clear that this route was intended to introduce an element of 'zonal planning', based on international experience. Indeed, the 2016 Productivity Plan described it as '*a new zonal system which will effectively give automatic permission on suitable brownfield sites*'.⁴⁷ PiP is intended to reduce uncertainty in the planning system by establishing the suitability of a site for development, including the acceptability of the type and quantum of development. The measures are focused on housing, and there are three ways of securing permission in principle:

- through a brownfield register, which local authorities must prepare for suitable brownfield land – sites in these registers will benefit from PiP and the brownfield register is now in effect a form of development plan;
- through sites allocated in 'qualifying documents', including the site allocations documents of a development plan; and

- through direct application to a local planning authority by an applicant for PiP.

PiP is intended to go beyond the weight of a current outline planning application. Once land has been identified as benefiting from PiP, applicants must then submit a further detailed application to gain full development consent. Unlike in the case of outline permission, the local planning authority's room for manoeuvre at this second stage – for example to reject the application on the grounds of the amount of development on a site – is very limited. The idea of fusing discretionary planning with zonal planning remains largely untested.

However, the tension in this new system is clear, and lies in the separation of detailed knowledge of site characteristics from consideration of whether the site is suitable for development in principle. A European-style zonal plan provides much greater certainty but is also much more detailed than an English Local Plan. English Local Plans allocate sites on their general sustainable development credentials but involve no detailed site investigations: this is normally a paper exercise. The previous safeguard was that a further full application, including detailed evidence through Environmental Impact Assessments (EIAs) on major sites, could lead to a legitimate refusal of permission on a site.

PiP is a complex hybrid system in which the matters that can be considered at the second stage of consent appear to be strictly limited and cannot be grounds for overturning the principled consent. Since detailed site characteristics very often determine the principle of the development, PiP contains significant internal contradictions. It remains in doubt as to how much PiP will actually be used. If it is taken up, PiP will probably be the element most open to legal challenge of all the aspects of the current planning system.

Notes

46 *National Planning Policy Framework*. Ministry of Housing, Communities and Local Government, Aug. 2018, para. 18.
<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

47 *Fixing the Foundations: Creating a More Prosperous Nation*. Productivity Plan. Cm 9098. HM Treasury, Jul. 2015.
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/443897/Productivity_Plan_print_.pdf

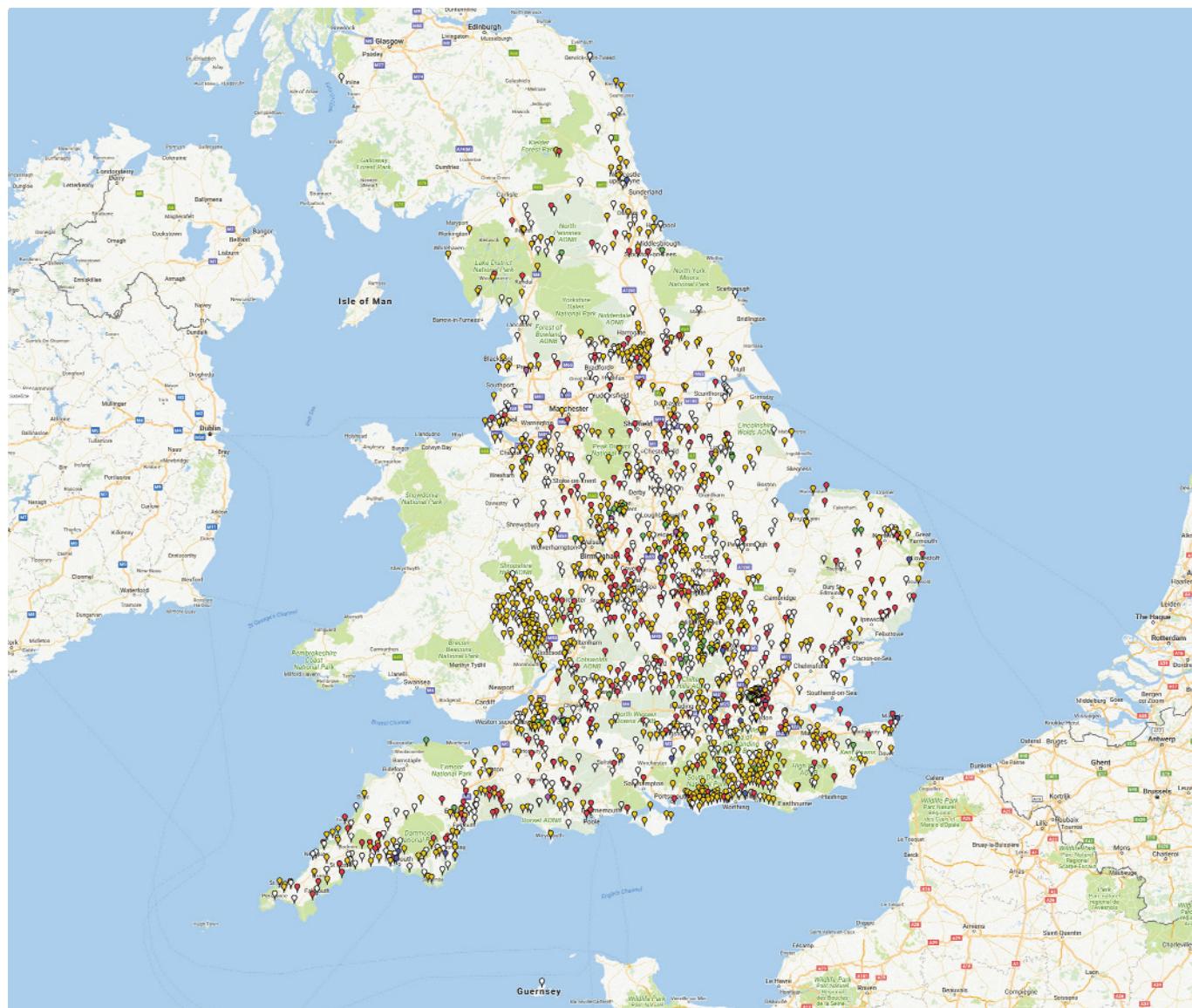


Fig. 4 Areas with Neighbourhood Plans in place or in preparation

Source: Neighbourhood Planner Interactive Mapping Tool. <http://neighbourhoodplanner.org.uk/map>

The Neighbourhood Plan

Neighbourhood Plans were introduced by the 2011 Localism Act and were intended to be a powerful mechanism by which communities could shape localised development. The way they were introduced was complex, designed to avoid some of the duties and rigour which apply to other forms of development plan, although their status is equivalent. Parish and town councils, as well as unelected neighbourhood forums in urban areas,⁴⁸ have the power to apply to

the local planning authority to adopt a Neighbourhood Plan – which has ‘light-touch’ examination and can be subject to a local referendum. The local planning authority must then adopt the plan as part of its local development plan unless there are good legal reasons not to. The contents of Neighbourhood Plans are limited by national policy, particularly on housing numbers. At the time of writing, some 2,300⁴⁹ Neighbourhood Plans were complete or under preparation (see Fig. 4).

Notes

48 Most large urban areas do not have parish or town councils and default to the forum route

49 ‘Government commits to further support for neighbourhood planning’. Press Release. Ministry of Housing, Communities and Local Government, 19 Mar. 2018. <https://www.gov.uk/government/news/government-commits-to-further-support-for-neighbourhood-planning>

Development management

One area of relative continuity in the 2018 planning system is the process of development management. The determination of planning applications either by delegation to officers or through a decision made by an elected planning committee remains in place. But inside this framework there has been significant change in three key areas:

- The expansion of permitted development rights has removed traditional controls over an extensive range of development involving the change of use of buildings. The prior-approval process for permitted development involves a very limited slate of issues, not allowing the local planning authority to secure a range of planning requirements on affordable homes or wider place-making standards.
- Limitations on the scope of development management also apply to developments proposed through brownfield registers or Local Plans which benefit from permission in principle. It is significant that there are now effectively three more ways to gain a form of planning consent than there was in 2010, when there was full and outline permission for the most significant developments.
- The performance regime for development management is focused on the speed of processing, which has come to be seen the key determinant of success. Additional tests on the number of appeals upheld against an authority are designed to drive conformity with national policy. There is no performance indicator for design quality, sustainable development, or community participation.

It is worth noting that decision-making on nationally significant infrastructure, under the 2008 Act regime, is administered by a division of the Planning Inspectorate, with the final decision resting with Ministers.

Building standards in planning

In parallel to the major changes to planning, government has also made changes to building standards which have a direct impact on the remit of planning. Government does this by controlling the content of building regulations, which is a separate legal regime, and by setting national policy standards such as the zero-carbon commitment. The abolition of the Code for Sustainable Homes and the abandonment of the zero-carbon commitment in 2016 are two examples of the changes that have been made. Central government has reduced the scope of local authorities to set their own building standards in Local Plans by prescribing a limited number of national building standards. These are not compulsory minimum standards, but they limit the scope of what a local planning authority can require in terms of accessibility or space. Such standards are subject to viability testing.

The Grenfell Tower disaster in 2017, in which 72 people died, had a seismic impact on our understanding of how we regulate the built environment. The Grenfell Public Inquiry is ongoing, but it is clear that there were major weaknesses in the building regulations regime and that the planning framework may also have questions to answer – for example on the degree to which residents' views were reflected in the planning phase of the refurbishment of the tower and in the wider masterplan of the neighbourhood. The tragedy resulted in a review of building regulations led by Dame Judith Hackitt, whose final report was published in May 2018. The report recommended 'radical' and systemic change to the regulation and culture of building control. The report⁵⁰ identified a system dominated by ignorance and by indifference:

'... the primary motivation is to do things as quickly and cheaply as possible rather than to deliver quality homes which are safe for people to live in. When concerns are raised, by others involved in building work or by residents, they are often ignored. Some

Note

50 Building a Safer Future. Independent Review of Building Regulations and Fire Safety: Final Report. Cm 9607. Hackitt Review. May 2018. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/707785/Building_a_Safer_Future_-_web.pdf



Planning is... not about people, it's about greed.

Parish councillor

of those undertaking building work fail to prioritise safety, using the ambiguity of regulations and guidance to game the system.'

The Hackitt Review was focused on building regulations for tall buildings, and there was no equivalent review of the contribution of planning decisions to the outcome of the Grenfell Tower disaster. **Nonetheless, the recommendations of the Hackitt Review do assume that planning will play a role in fire safety, and the Raynsford Review received evidence that the fire service was not routinely involved in the detail of approval for access arrangements for fire appliances on new development.⁵¹ There is a significant resonance between the Hackitt Review and our work, particularly in a shared concern about the quality and safety of development and about an apparent systemic indifference to outcomes for people.**

There are four important questions which emerge from Grenfell Tower for a review of planning:

- How far are people most affected by a planning decision being allowed to meaningfully participate in that decision?
- How far is the unclear regulatory boundary between building regulations and planning helpful to securing the safety and wellbeing of people?
- Should people's safety and wellbeing be a central objective of the planning process?
- What are the lessons from the failures of building regulations and their enforcement for way we manage planning policy and enforcement?

One clear lesson from the Hackitt Review is that we need to focus on outcomes for people and on how good outcomes can be effectively secured. This is

fundamental to people's basic safety, but it also relates to a wider set of outcomes in the built environment which can enable or restrict people's wellbeing and life chances.

The 2018 betterment taxation system

The current method of recouping development values that result from the actions of public authorities is defined by two planning approaches. The first relies on the voluntary implementation of the Community Infrastructure Levy (CIL), and the second is the ad hoc use of Section 106 agreements.

Section 106 agreements (also known as 'planning gain') are contracts between the developer and the local planning authority and can involve lengthy negotiations and provide highly variable yields to localities.⁵² The simple fact is that there is much less 'planning gain' available in low-demand areas with low land values. Section 106 agreements, which can include in-kind provision for affordable homes, are generally related to development costs rather than development values, and in the case of obligations *other than for affordable housing* are charges designed to mitigate impacts, rather than direct betterment taxes. Section 106 agreements survived the introduction of CIL, with some restrictions, and crucially they appear to yield much greater levels of direct and in-kind benefit than CIL, particularly in relation to 'affordable' housing provision.

In 2011/12 the total value of Section 106 agreements in England was estimated at £3.7 billion, a reduction from £4.8 billion in 2007/08.⁵³ The latest research commissioned by the Ministry of Housing, Communities

Notes

- 51 This evidence was based only on three interviews with public sector planners and a planning consultant and not on any systematic survey
- 52 See T Crook, J Henneberry and C Whitehead: *Planning Gain: Providing Infrastructure and Affordable Housing*. Wiley-Blackwell, 2016, Table 7.1
- 53 *Section 106 Planning Obligations in England, 2011-12*. Report of Study. University of Reading *et al.*, for Department for Communities and Local Government, May 2014. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/314066/Section_106_Planning_Obligations_in_England_2011-12_-_Report_of_study.pdf

and Local Government shows a significant increase in ‘betterment yield’ to £6 billion in 2016/17, with 85% of that figure coming from Section 106 agreements.⁵⁴ This increase in value has to be set against the increase in consents for homes, and a tension exists between these findings and other research which points to the reduction of Local Plan requirements for affordable homes, particularly in low-demand areas.⁵⁵

Because both Section 106 agreements and CIL are based on recouping development values, they inevitably yield the highest returns in the highest-value areas. Since there is no mechanism for redistributing this revenue to lower-demand, lower-value areas, both CIL and Section 106 agreements have the unintended effect of reinforcing spatial inequality.

Concerns about Section 106 agreements’ lack of public transparency and over the transaction costs for the private sector led to the development of a more codified approach in the CIL regime, introduced in 2008. Again, the stated logic of CIL was not to tax betterment but to provide and pool funds for the delivery of infrastructure required as a result of the impact of new development.

The CIL regime was comprehensively examined in late 2016 by a review group led by Liz Peace⁵⁶ – and two headline findings from that work seem particularly relevant to this Review. First, by October 2016 only 130 local planning authorities had introduced CIL charging regimes, and these were focused in high-demand areas. Many low-demand places have no scheme and

no intention of applying one. Second, the amount generated by CIL was much lower than anticipated: by March 2015 it had yielded £170 million, compared with an expected yield of between £470 million and £680 million per year. The estimated value of the contribution from CIL to local infrastructure is between 5% and 20%⁵⁷ of the total cost.

Since Section 106 agreements cannot be applied to permitted development (PD), one of the consequences of the government’s extension of PD rights has been to relieve property owners of meeting the cost of infrastructure and service requirements arising from such development and to deny the community access to affordable housing. Research undertaken for the Royal Institution of Chartered Surveyors (RICS) published in 2018 makes clear that ***‘overall, office-to-residential PD has been a fiscal giveaway from the state to private sector real estate interests, while leaving a legacy of a higher quantum of poor-quality housing than is seen with schemes governed through full planning permission’***.⁵⁸

A key finding of the Review is that the government earns significant revenue from national betterment taxation through both capital gains tax and stamp duty land tax. These taxes reflect an element of betterment taxation and yield significant sums.

Overall, this picture reinforces two significant points:

- The current method of recouping development values through planning relies on the voluntary implementation of CIL and the ad hoc use of

Notes

- 54 A Lord, R Dunning, B Dockerill, G Burgess, A Carro, T Crook, C Watkins and C Whitehead: *The Incidence, Value and Delivery of Planning Obligations and Community Infrastructure Levy in England in 2016-17*. Ministry of Housing, Communities and Local Government. Mar. 2018. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/685301/Section_106_and_CIL_research_report.pdf
- 55 *Planning for Affordable Housing*. TCPA, supported by the Nationwide Foundation, Oct. 2018. <https://www.tcpa.org.uk/planning-for-affordable-housing-report>
- 56 *A New Approach to Developer Contributions*. Report by the CIL Review Team, Oct. 2016. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/589637/CIL_REPORT_2016.pdf
- 57 *Ibid.*
- 58 B Clifford, J Ferm, N Livingstone and P Canelas: *Assessing the Impacts of Extending Permitted Development Rights to Office-to-Residential Change of Use in England*. Royal Institution of Chartered Surveyors, May 2018. <https://www.rics.org/globalassets/rics-website/media/knowledge/research/research-reports/assessing-the-impacts-of-extending-permitted-development-rights-to-office-to-residential-change-of-use-in-england-rics.pdf>

Section 106 agreements. Both tend to reinforce spatial inequality in the sense of yielding most in high-demand areas, regardless of the wider needs for homes or infrastructure elsewhere.

- The approach does not cover the cost of the majority of infrastructure investment, which must be provided by the public sector.⁵⁹ Given that housebuilding is also subject to very significant public subsidy,⁶⁰ it is interesting to reflect on the wider question of fairness between taxpayers and those who profit from betterment values. It is also significant that larger sites contribute much more through Section 106 agreements, which do not apply to minor development, even when this can have a greater cumulative impact on communities.

Both Section 106 and CIL charging schemes had to comply with the policy context of the 2012 NPPF viability test, which preserved the expectation of substantial landowner and developer profit margins. The 2018 NPPF significantly altered the viability test and reduces the scope for undermining Local Plan expectations on Section 106 and CIL. The CIL Review Team⁶¹ recommended changes to CIL and Section 106 regimes to reduce complexity and distinguish between a low-level, flat-rate charge and bespoke measures for larger sites. The team was not given the brief to go beyond the impact fee regime, nor to consider the regressive nature of the system.

While Section 106 agreements and CIL are the key forms of betterment taxation in planning, they are not the only forms. In fact, both stamp duty land tax and capital gains tax capture betterment values when land is transacted. While both taxes capture betterment indirectly, they are nonetheless likely to yield significant returns to the Exchequer, deriving from planning regulation. At the time of writing, the Review could not

clarify the extent of these returns, but they are not hypothecated to funding either the planning service or wider infrastructure.

The resources of the planning service

The planning service has been subject to the largest financial cuts of any function of local government. Figures from the National Audit Office from 2014 confirm the scale of these cuts, as shown in Fig. 5, on the next page. Unlike areas such as social care, there are no minimum legal service provisions for the planning service, which means that those authorities with both responsibilities are confronted with very hard choices. The default position is to reduce capacity on policy and forward planning and focus on meeting targets on development management.

The institutions of national planning

The Ministry of Housing, Communities and Local Government (MHCLG) has overall responsibility for the town planning regime in England but has no specific remit to co-ordinate the institutions and agencies involved in national planning, which often rest with separate government departments (see Fig. 6). MHCLG prepares policy such as the NPPF and has, as this Report makes clear, a dominant role in shaping outcomes at the local level through the reform of legislation and through issuing policy. As well as the NPPF and the accompanying national Planning Practice Guidance, MHCLG issues specific policy on an ad hoc basis through Ministerial Statements and letters to chief planning officer. The Ministry deals with caseloads from 'called-in' planning applications and is the sponsoring department for the Planning Inspectorate, which deals with planning appeals, the examination of

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59 CIL is also subject to wider-ranging exemptions and reliefs

60 It was announced in October 2017 that the government will invest a further £10 billion in the Help to Buy scheme – see '£10 billion new funding for Help to Buy Equity Loan'. News Story. Department for Communities and Local Government, 2 Oct. 2017 <https://www.gov.uk/government/news/10-billion-new-funding-for-help-to-buy-equity-loan>

61 *A New Approach to Developer Contributions*. Report by the CIL Review Team, Oct. 2016. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/589637/CIL_REPORT_2016.pdf

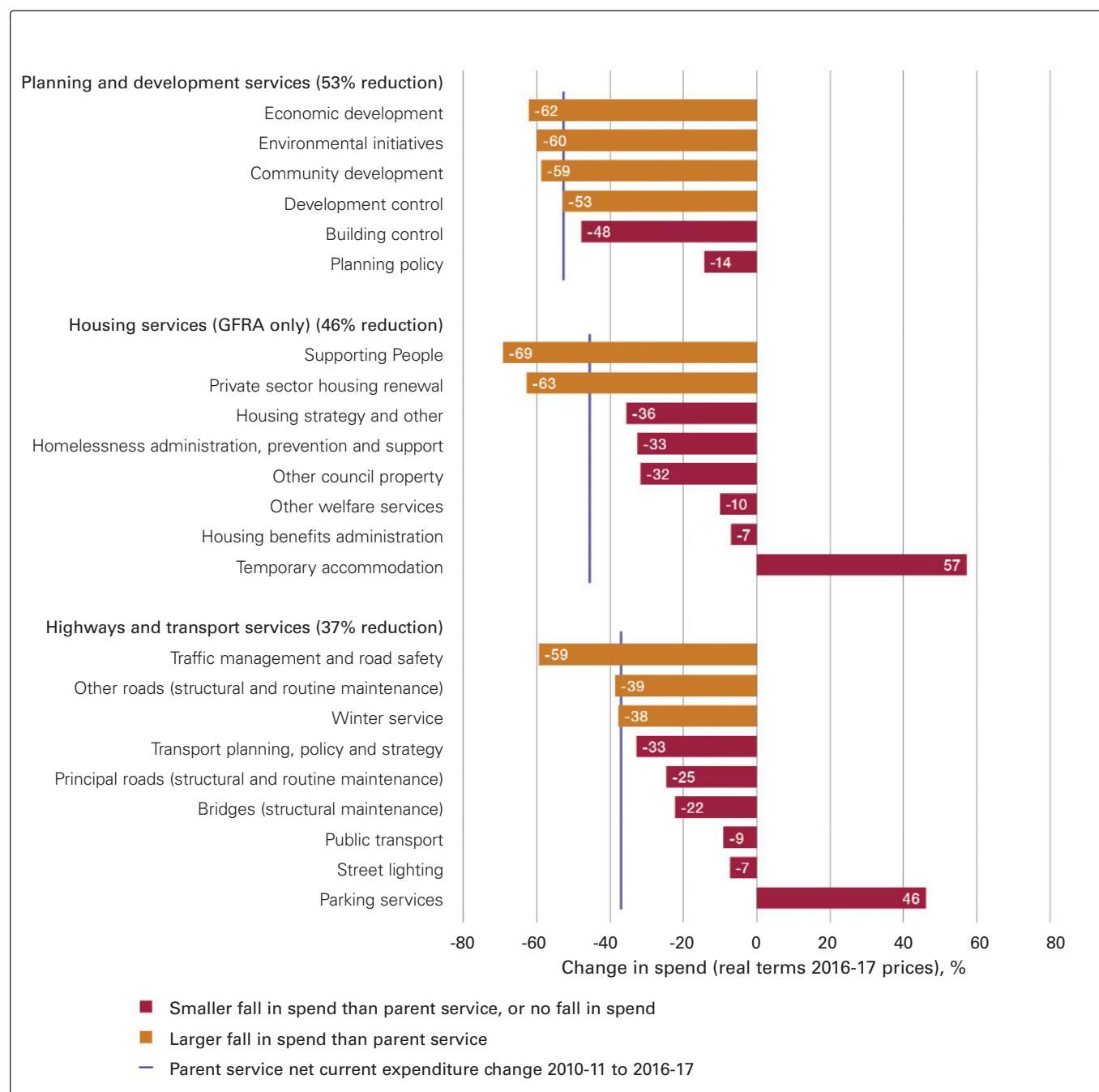


Fig. 5 Change in spending by sub-service by local authorities in England, 2010-11 to 2016-17

Source: *Financial Sustainability of Local Authorities 2018*. National Audit Office, Mar. 2018

Local Plans, and applications through the separate 2008 Nationally Significant Infrastructure Projects regime.

There is no integrated national spatial planning regime in England. Separate government departments

and their agencies publish national strategies relevant to planning, but few of them are expressed in a spatial format that might be useful for practical decision-making. Examples of these strategies include the 25 Year Environment Plan,⁶² the National Adaptation Programmes on climate change,⁶³ and the Industrial

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62 *A Green Future: Our 25 Year Plan to Improve the Environment*. HM Government, Jan. 2018.
<https://www.gov.uk/government/publications/25-year-environment-plan>

63 *The National Adaptation Programme: Making the Country Resilient to a Changing Climate*. HM Government, Jul. 2013.
<https://www.gov.uk/government/publications/adapting-to-climate-change-national-adaptation-programme>

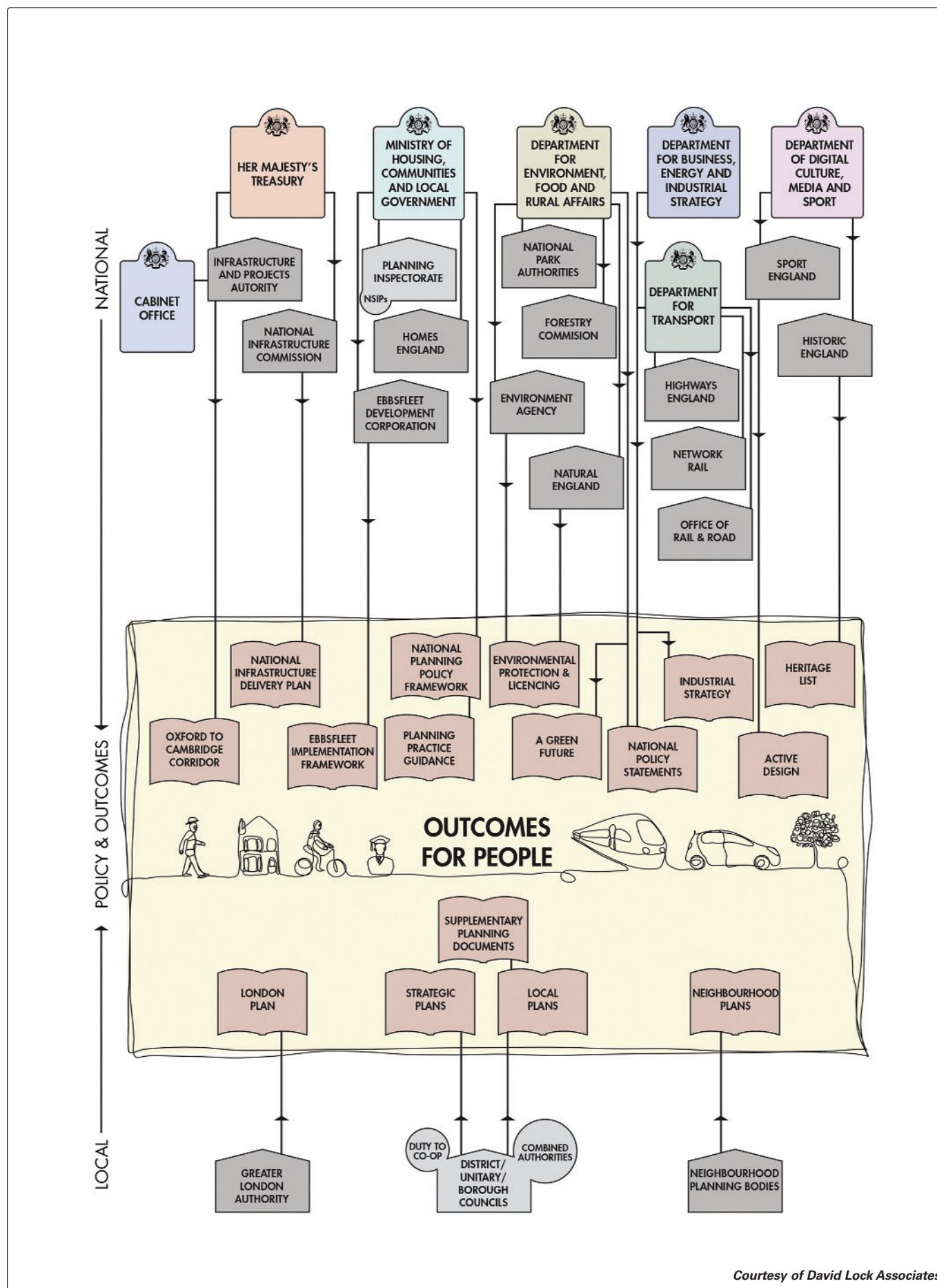


Fig. 6 Elements and institutions in the current planning system

Strategy.⁶⁴ The 2008 NSIPs regime, which originally dealt with a limited number of energy, waste and transport projects, has now been expanded to include large-scale leisure facilities and some associated housing. The system is founded on the production of National Planning Statements for individual sectors. These are not well related to each other, and while some, such as the nuclear energy NPS,⁶⁵ are site specific, the majority are not. There is no clear legal relationship between the 2008 NSIPs regime and the town and country planning system. The NPPF has made clear that NPSs are a material consideration in town and country planning, but it provides no indication of the weight to be given to NPS policy or how it should be reflected in Local Plans.

There have been calls to expand the NSIPs regime to deal, for example, with major new settlements. There has also been concern that the voice of communities is not adequately heard within the regime.

Brexit

Since a great deal of the process and policy upon which the English planning system is based relies on EU Directives, the UK's exit from the EU raises the prospect of further radical change to the system. However, at the time of writing, the terms on which the UK will leave the EU are still unclear, as is how regulatory convergence may influence how much EU regulation the UK retains. Only one issue emerges with any clarity: the need, in the context of a 'hard' Brexit, for consolidated and effective planning legislation which makes clear whether important frameworks such as Environmental Impact Assessments are retained. Brexit

creates a deep layer of institutional uncertainty for the future of the planning system. However, it also creates the necessity for change and an opportunity to frame clear objectives, structures and governance arrangements.

The European Union (Withdrawal) Act 2018 demonstrates the opportunity and challenge that lies ahead by laying out a powerful set of environmental principles to underpin future legislation on the environment due later in 2018. The legislative recognition of sustainable development and of the Aarhus Convention framework as key principles is a major step forward and a tacit acknowledgment of the value of expressing such principles in primary legislation. It is therefore quite extraordinary that, at the time of writing, it is not clear if they will apply to planning legislation or be restricted to other forms of environmental legislation within the remit of the Department for Environment, Food and Rural Affairs (Defra). Paragraphs 134 to 136 of the Defra consultation document⁶⁶ on the forthcoming legislation leave a large number of questions unanswered:

'134 The new body's functions in relation to environmental aspects of the planning framework would need to work alongside, while ensuring clear boundaries between, the established systems in place for scrutiny of and appeal against planning decisions and development plans. The intention would be that individual decisions made under relevant planning legislation would continue to be handled under the existing processes.'

'135 As with other areas of environmental law, we need to consider how the body would interact with the existing planning system in relation to environmental laws that apply to planning activities, notably those concerning

Notes

- 64 *Industrial Strategy: Building a Britain Fit for the Future*. Industrial Strategy White Paper. HM Government, Nov. 2017. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/664563/industrial-strategy-white-paper-web-ready-version.pdf
- 65 *National Policy Statement for Nuclear Power Generation (EN-6). Vol. I of II*. Department of Energy and Climate Change. TSO, Jul. 2011. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/47859/2009-nps-for-nuclear-volumel.pdf
- 66 *Environmental Principles and Governance after the United Kingdom Leaves the European Union: Consultation on Environmental Principles and Accountability for the Environment*. Department for Environment, Food and Rural Affairs, May 2018. https://consult.defra.gov.uk/eu/environmental-principles-and-governance/supporting_documents/Environmental%20Principles%20and%20Governance%20after%20EU%20Exit%20%20Consultation%20Document.pdf



Our planning system is far from perfect; adversarial, over-centralised overly bureaucratic, reactive, contradictory and legalistic. It is amazing that it still delivers some very good development and places, even award-winning schemes.

Private sector planner

implementation of habitats regulations assessments, environmental impact assessments and strategic environmental assessments. This should not be a case-by-case review of decisions regarding development plans and proposals, which would be duplicative and would amount to another tier in the planning process. The body would have no role in individual planning policy decisions. The focus of the new body would therefore be on ensuring the correct application of relevant environmental law within the planning system.

'136 *In relation to wider planning policy, the body could have two roles. Firstly, it could be a key consultee, when certain planning policy is being considered, for example when the National Planning Policy Framework is updated. Furthermore, if the body has a wider policy role, it could provide advice on the implementation of the environmental aspects of existing planning policy and suggest future potential changes. The government would not be bound to agree to such suggestions, but should consider them alongside wider policy aims.'*

There is growing legal commentary⁶⁷ highlighting the potential uncertainty and complexity suggested by these statements, but it would be deeply illogical to exclude planning legislation, and its inclusion would make planning subject to a set of statutory principles and an oversight body.

Conclusions

The current English planning framework has changed rapidly since 2010, with radical changes to the objectives, structures and remit of the system. This rapid rate of change has continued over the last 18 months, and the system is now markedly different from the one that existed when the Review began. The latest revised NPPF marks another significant change in the planning process. The government has not signalled when it believes planning reform will come to end, nor published a route-map of what the system will look like at the end of the process. In this context, the Review must respond to the letter of each separate government proposal and try to offer a general view of what the cumulative effect of these changes might be. Based on the policy and legal framework currently in play, it is possible to conclude that:

- Planning legislation is highly complex and has been subject to multiple amendments over various rounds of planning reform.
- There is no single planning system in England, with multiple structures for local, devolved and national planning and multiple agencies and institutions operating under differing parts of government.
- The system now has less effective control over many forms of development.
- The system has narrowed in scope and capacity and is no longer regarded as a key public policy instrument on wellbeing or climate change, etc.

In practice, the 2018 planning system has strongly diverged from the 1947 settlement. It is also radically different in both structure and policy from the planning system framed by the 2004 Planning and Compulsory Purchase Act. Further changes, particularly to the development plan structure, mean that a fixed description of the system is almost impossible to provide.

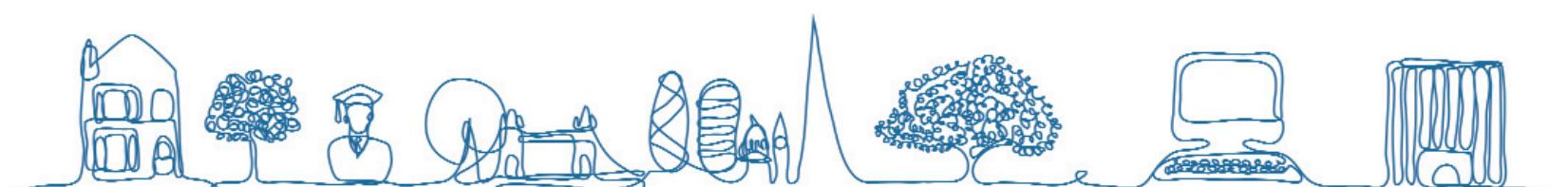
Note

67 'Planning, Brexit'. Simonicity Blog entry, 18 Sept. 2018. https://simonicity.com/2018/09/18/planning-brexit/amp/?__twitter_impression=true

Table 1

The state of the 2018 planning system compared with the objectives of the 1947 planning settlement

| 1947 | 2018 |
|--|---|
| Comprehensive land use control (excluding agriculture) | In theory, the scope of planning remains unchanged, but, in practice, permitted development has significantly reduced the control of land uses in urban and rural areas. |
| Nationalised development rights | In theory, nationalised development rights remain intact, but, in practice, permitted development rights, where they apply, have handed back the full value of development rights to developers (there is no requirement to pay CIL or Section 106 monies on permitted development schemes). |
| Comprehensive land taxation | There is no comprehensive mechanism for betterment taxation and only ad hoc methods of collecting development values through local CIL or Section 106 agreements, plus an element of national recouping through capital gains tax and stamp duty land tax. |
| Locally accountability (except for the New Towns) | <p>Planning operates in 340 local planning authorities in England. The system can be charitably described as 'a mosaic' which is shaped by local government structures (and, in particular, the split of planning responsibilities between county councils and districts in two-tier areas) and by devolution. London's planning system is unique.</p> <p>Planning powers are being granted to combined authorities, but large parts of England will not be part of combined authority areas. In relation to the development plan, the 2,300 parish and neighbourhood forum Neighbourhood Plans also need to be considered. These represent a new form of planning authority but have a radically different form of local accountability.</p> |
| Discretionary decision-making | The introduction of 'permission in principle', where plan allocations and brownfield register site allocations automatically have permission in principle, marks a major introduction of a new form of hybrid zonal planning into the otherwise discretionary system. Since this applies only to housing and does contain a second stage of detail, it is extremely hard to judge the consequences. |
| Central supervision | There has been a growing tendency for government to issue much more national guidance for local planning authorities. Legislative change has empowered the weight of this guidance in decision-making. This, coupled with increased reserve powers for the Secretary of State to intervene on multiple issues of 'under-performance', means that there is more centralised control of local planning authority functions than at any time in the post-war period. |
| Positive use of New Town Development Corporations for large-scale growth | The New Town powers on the delivery of new settlements have not been used since 1970, but there is one Urban Development Corporation at Ebbsfleet and two Mayoral Development Corporations in London. |



Section 5

The submitted evidence

The Review team are immensely grateful to the many individuals and organisations who took the time to submit evidence and attend events and interviews during the 'call for evidence' period in 2017 (see Fig. 7), and for the further responses to the Interim Report made during the summer of 2018. A full list of those who gave evidence is given in Annex 3.

It is extremely difficult to do justice to all the arguments presented to the Review in this Final Report. The Review team have, however, examined all the submissions in detail and endeavoured to incorporate as much of this learning as possible into the conclusions of this Report. The Review team have also conducted its own research into a number of key issues, and the resulting background papers can be found on the Raynsford Review page of the TCPA website.⁶⁸ This Section

provides a summary of the character of the evidence received and of the complexity of the policy and legal dilemmas that emerge from this evidence.

The nature and character of the evidence

One important caveat about the nature of the 'conversations' in and surrounding the Review's roundtable events is the clear gap between what stakeholders would say publicly and what they told the Review team 'off the record'. For example, interviews with public sector planners tended to be influenced by their desire not to be seen to talk down planning in their own authority, and so they were reluctant to express their private conclusions about how challenging planning practice was. Likewise,



Fig. 7 Summary of the Review evidence and engagement activities

Note

68 The Raynsford Review background papers can be found on the Raynsford Review pages of the TCPA website, at <https://www.tcpa.org.uk/raynsford-review>



some volume housebuilders publicly reflected on the value of the plan-led system while acknowledging privately that 'off-plan' land speculation has been a highly lucrative part of their business model.

The outputs of these exchanges provided a rich qualitative strand of evidence which offers a real insight into the attitudes and values of the differing sectors. The Final Report contains a selection of anonymised quotes which reflect a flavour of these views.

One further vital issue is the lack of monitoring and review of policy at both national and local levels.

Government does not provide any systematic analysis of the impacts of major policy initiatives, such as the expansion of permitted development rights. There is, for example, no agreed figure on how many units of housing have been consented through this route. In the same way, Local Plan annual monitoring reports produced by local government are no longer collated centrally, nor do they report on key factors such as the delivery of design quality standards⁶⁹ or carbon dioxide emissions reduction.⁷⁰ As a result, the Final Report attempts both to make clear where there are key evidential gaps and to focus on themes on which evidence could be robustly collated.

What did the submitted evidence tell us?

The nature of the evidence explored by the Review team is complex, but, in general, it is marked by profound disagreement between landowners, developers, NGOs, professional bodies, communities and government about almost every aspect of the English planning system. In so far as there is any agreement, there is a shared criticism of the current state of planning practice. Ironically, communities and parts of the private sector are equally frustrated by the uncertainty and confusion inherent in the planning system, although often for very different reasons.

The key areas of concern raised in the evidence can be grouped into 12 key themes:

- the purpose and objectives of the system;
- the degree to which the current system is delivering on its objectives, and particularly the kinds of outcomes it produces for people;
- how much control should be exercised through the planning process (positive and negative);
- how the balance of planning powers should be distributed between central and local government;
- the right geography for planning, including local government structures and boundaries;
- the degree to which communities should have meaningful control over their own local environment, and the nature of community rights;
- issues of betterment and fair land taxation;
- the lack of resources and capacity across the public sector planning service and the confusion surrounding the role of the town planner;
- the important lessons to be learnt from international planning systems;
- the opportunity to use new technology in planning practice;
- the nature of the real-world challenges which the planning system needs to address now and will have to deal with in the future; and
- the economic costs and benefits of planning regulation.

In addition to these principal themes, a range of other related issues have been consistently raised in the evidence:

- concern about the specific skills of planners on issues such as new technology and community participation;
- widespread confusion about key policy and practice changes, including, for example, the viability test, the legal weight of the development plan, the impact of devolution, the duty to co-operate, and significant change to the status of Green Belt; and
- the failure of planning to adequately ensure the co-ordination of wider investment in a range of

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69 Results from the Review's unpublished background research on authority monitoring reports in 2017

70 *Planning for the Climate Challenge? Understanding the Performance of English Local Plans.* TCPA, Nov. 2016.
<https://www.tcpa.org.uk/planning-for-the-climate-challenge>

social, transport and utilities infrastructure, particularly health and education.

It is significant that the resourcing of the planning service to enable a positive and informed response to users was by far the most significant issue raised by the private sector. As one private sector developer put it, '*I just imagine a phone ringing down a long empty corridor. There is just nobody left to talk to!*' Solving this problem would undoubtedly contribute more in the short term to addressing concerns about delivery than any other single measure.

Evidence theme 1: What is the planning system trying to achieve?

I don't see a division between the public and private sector interests. Growth is vital for everyone and we deliver growth.

Private sector land promoter

There is broadly a division in the evidence between those stakeholders who support a view of planning as being designed to uphold public interest outcomes, with the objective of achieving sustainable development,⁷¹ and those who see the objective of planning as supporting private sector housing delivery in support of economic growth. Review Background Paper 2⁷² pointed out that there has long been debate about the role of the state in the land question and about the balance between private property rights and the public interest.

However, the evidence suggests that this argument has now been resolved in favour of a system focused

on the production of the quantum of housing by empowering private property interests, and has de-prioritised the many other dimensions of planning for sustainable development. This view of planning assumes that the allocation of housing units for private sector developers equates directly with the public interest. Indeed, some respondents did not see a meaningful division between the needs of volume housebuilders and the wider public interest in economic growth.

The confusion about the objectives of the planning system was focused on a lack of clarity in law and policy as to what sustainable development means in operational terms. The Review's examination of the existing legal duty on sustainable development in planning revealed an obligation that lacks any statutory definition.⁷³ The expression of sustainable development in both the 2012 NPPF and the revised NPPF published in July 2018 are vague and not founded on UK or internationally recognised definitions. The revised NPPF does not mention the United Nations' Sustainable Development Goals, despite these objectives being referenced in the government's own 25 Year Environment Plan. **Instead, the 2018 NPPF creates its own unique definition of sustainable development which leaves out core internationally agreed principles.** This matters because it results in the removal of important ideas such as the precautionary principle. This weakening of the principles is then reinforced by explicit guidance that they should not be applied in all planning decisions. Paragraph 9 of the NPPF states that the '*overarching [sustainable development] objectives ... are not criteria against which every decision can or should be judged*'.⁷⁴ This creates space for the principles of sustainable development to be traded off against each other and so undermines any meaningful consideration of sustainable development in planning decisions.

Notes

- 71 This view is best summarised as support for the definition of planning expressed in Planning Policy Statement 1 (PPS1), which was revoked and replaced by the NPPF in 2012
- 72 *The Rise and Fall of Town Planning*. Background Paper 2. Raynsford Review. TCPA, Jun. 2017.
<https://www.tcpa.org.uk/Handlers/Download.ashx?IDMF=ffffe8fd5-734f-489d-bd9e-d4e211a91b0b>
- 73 See Section 39 of the 2004 Planning and Compulsory Purchase Act
- 74 *National Planning Policy Framework*. Ministry of Housing, Communities and Local Government, Jul. 2018, paras 8 and 9.
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/740441/National_Planning_Policy_Framework_web_accessible_version.pdf

In stark contrast to the approach adopted by the Welsh Government, the operational principles of planning in the NPPF contain no reference to future generations,⁷⁵ to environmental limits, or to social equity, equality or public participation. Even if the NPPF were evenly balanced in policy weighting, which the evidence suggests it is not, it would be very hard to see how its contents, taken as whole, can deliver on the principles of sustainable development.

As a result, to quote one Review submission, '*the use of sustainable most often refers to economic growth*'.⁷⁶ The evidence suggests that there is widespread agreement that this is now the purpose of planning, although there are starkly differing views on whether this is right or what long-term consequences it might have. One significant implication of this position, raised by a number of respondents from the heritage, health and environmental sectors, is that the presumption in favour of development (which requires a very high test of harm⁷⁷) has had the effect of de-prioritising important planning considerations which might have improved the quality of development.

There was strong feedback from public sector planners that sustainable development was no longer an operational principle of planning, and that the allocation of housing in some authorities was now taking place on sites that were clearly judged to be unsustainable before the adoption of the NPPF in 2012. The degree to which unsustainable outcomes are being produced requires further research and is explored in more detail below.

The tension illustrated in the evidence between a public interest system focused on a coherent definition of sustainable development and market-led objectives for planning reinforces the current reality of a system whose purpose is, at best, conflicted and at worst profoundly confused. While the evidence is nuanced

with some examples of positive outcomes, the general picture is clear. **If there is a continuum between a system that upholds the wider public interest and a system designed to meet the needs of private interests, the current system has shifted decisively towards the latter.**

This summary leaves out the strong call from a significant number of respondents for a refocusing on a much more positive, 'people-centred' and 'sociable' planning system. This was a view which tended to be expressed by some politicians, younger participants, some planning consultancies, architects, and some community organisations. It was reinforced by the way that the Grenfell Tower tragedy had refocused people's minds on basic issues around the safety and wellbeing of individuals and the question of whether communities were being respected and listened to in the decisions that shaped their lives.

A further view which was significant among some conservation and amenity groups, as well as among some politicians, was an essentially traditional and conservative model based on a notion of stewardship of the land, framed by meeting local needs and emphasising broad patterns of continuity. There was also some welcome agreement on the case for planning as a rational tool for the co-ordination of public and private investment and, in particular, on the role of plans in supporting asset values.

Evidence theme 2: Is the current system 'successful'?

The degree to which the current system is judged a 'success' depends entirely on which of the two objectives discussed above is used to test the system. If we accept the government's claim that the purpose

Notes

75 The 2018 NPPF does mention (in para. 8) future generations but only in relation to housing provision

76 Written submission from the public health sector

77 See paragraph 11(b) ii of *National Planning Policy Framework*. Ministry of Housing, Communities and Local Government, Jul. 2018, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/740441/National_Planning_Policy_Framework_web_accessible_version.pdf

Table 2

Net additions to housing supply in England, 2011/12-2016/17

| | Housing supply | | | | | |
|---------------------------------|----------------|---------|---------|---------|---------|---------|
| | 2011/12 | 2012/13 | 2013/14 | 2014/15 | 2015/16 | 2016/17 |
| New build completions | 128,160 | 118,540 | 130,340 | 155,080 | 163,940 | 183,570 |
| Plus: | | | | | | |
| Net conversions | 5,240 | 4,100 | 4,470 | 4,950 | 4,760 | 5,680 |
| Net change of use | 12,590 | 12,780 | 12,520 | 20,650 | 30,600 | 37,190 |
| Net other gains | 1,100 | 1,370 | 1,330 | 630 | 780 | 720 |
| Minus: | | | | | | |
| Demolitions | 12,200 | 12,060 | 12,060 | 10,610 | 10,420 | 9,820 |
| Net additional dwellings | 134,900 | 124,720 | 136,610 | 170,690 | 189,650 | 217,350 |

Source: LiveTable 120: 'Components of housing supply; net additional dwellings, England 2006-07 and 2016-17'. Ministry of Housing, Communities and Local Government

of planning is to increase the allocation of housing units, then the system is plainly delivering, with consent for 321,000⁷⁸ housing units granted in 2017, (bringing the total of unimplemented permissions to an estimated 851,000⁷⁹) and an unrecorded additional number of units allocated in adopted and draft Local Plans.⁸⁰ Permissions alone are now running well in advance of demographic need,⁸¹ and have been doing so since at least 2014.⁸² In fact, the government's own test of 'success' is more nuanced, focusing on homes completed, and here the record is less impressive. In 2015/16, around 164,000 new homes were completed.

By adding the number created by conversion, less the number demolished, the figure reached a total of around 190,000 housing units completed in 2015/16 and 220,000 in 2016/17 (see Table 2).⁸³ The level of units produced through conversion is notable and reflects the impact of the extension of permitted development rights discussed below. Completions have now reached the level achieved in 2008 under a very different planning system, where conversions made up a much smaller proportion of new housing units. While quality and sustainability have not been policy priorities for the government, affordability has been, and here the

Notes

- 78 LGA/Glenigan research reported in 'More than 423,000 homes with planning permission waiting to be built'. News Story. Local Government Association, 16 Feb. 2018. <https://www.wired-gov.net/wg/news.nsf/articles/LGA+More+than+423000+homes+with+planning+permission+waiting+to+be+built+20022018134000?open>. This data relates only to permissions on sites which have started building: this is therefore a conservative view of total permissions
- 79 Research for the Local Government Association published in Jan. 2018 indicated that there were 365,000 unimplemented permissions in 2015/16 and 423,000 the following year. The Housing Minister stated at the 2018 Conservative Party Conference that there was extant planning permission for 851,000 housing units. We are adding to this total by 100,000 unbuilt permissions per year (i.e. the gap between 321,000 consented and 220,000 completed in 2017)
- 80 Permissions continue to run in advance of completions by around 100,000 per annum, which suggests we should have exceeded 500,000 unimplemented permissions
- 81 A Holmans: *New Estimates of Housing Demand and Need in England, 2011 to 2031*. Town & Country Planning Tomorrow Series Paper 16. TCPA, Sept. 2013. Available at https://www.cchpr.landecon.cam.ac.uk/Downloads/HousingDemandNeed_TCPA2013.pdf/view
- 82 Estimates of demographic need vary, but can be crudely benchmarked as between 250,000 and 275,000 homes per annum
- 83 LiveTable 120: 'Components of housing supply; net additional dwellings, England 2006-07 and 2016-17'. Ministry of Housing, Communities and Local Government. <https://www.gov.uk/government/statistical-data-sets/live-tables-on-net-supply-of-housing>

record is poor, particularly on tenures such as social rent, where 103,642 local authority and 46,972 housing association socially rented homes were lost between 2012 and 2017.⁸⁴ Only 6,500 new homes for social rent were completed in 2017.

The government's other indicators of success present a mixed picture. Neighbourhood planning can be judged a success in terms of the number of plans being prepared. Beyond this, the evidence on neighbourhood planning was significantly divided. There were great advocates of the 'revolution in community planning', who saw neighbourhood planning as the foundation of a new bottom-up system. Some of the submissions suggested that neighbourhood planning could be aggregated up to operate as a framework for larger spatial scales. This positive evidence was tempered by equally strongly expressed concerns about the limitations of such plans. These concerns came partly from communities who were angry at the lack of power in Neighbourhood Plans and felt that communities had been 'betrayed' after spending years of effort to prepare a plan, only to find Neighbourhood Plan policy overturned at appeal.

There were equally strong views from the development sector that Neighbourhood Plans were 'NIMBY charters' and made necessary development even more difficult. In addition, there were concerns about the contents of such plans in relation to key issues such as climate change and health; about the lack of accountability of neighbourhood forums; and about the variable uptake of such plans, particularly in poorer areas and in complex urban environments. The academic evidence⁸⁵ confirms this skewed uptake among predominantly more affluent areas. The research has also shown that

even for highly organised and well endowed communities it has been burdensome. The Review team were struck by the number of northern industrial towns and cities with no Neighbourhood Plans. One respondent made clear that '*people have other priorities, like survival*'. The fact that resources for neighbourhood planning, which have been significant, are not directed at those communities with greatest needs is significant.

The difficulties in navigating this community right has also led to the majority of Neighbourhood Plans being modified by examiners, with adoption times averaging – at best – 27 months. Furthermore, local planning authorities' responses towards neighbourhood planning have been mixed, with some authorities actively dissuading neighbourhoods from participating in this way.⁸⁶ Of greater concern, given the government's desire to expand the scope of Neighbourhood Plans, is that very little is known about how these plans are actually being deployed or implemented in decision-making.⁸⁷

It is important to note that these concerns should be set in the context of the government's aim of increasing the role of neighbourhood planning, as set out in the 2018 NPPF. The outcome of the new NPPF policy could be the divergence of the character of Local Plan policy coverage, with richer areas having more detailed policy in Neighbourhood Plans and low-demand areas having plans with only strategic content. **This has major implications for securing minimum place-making standards, particularly for those in areas with the greatest public health and wellbeing challenges.**

The preparation of local development plans also presents a mixed picture of success, with the level of plans adopted post-NPPF standing at 43% after six

Notes

- 84 'More than 150,000 homes for social rent lost in just five years, new analysis reveals'. News Story. Chartered Institute of Housing, 31 Jan. 2018. http://www.cih.org/news-article/display/vpathDCR/templatedata/cih/news-article/data/More_than_150000_homes_for_social_rent_lost_in_just_five_years_new_analysis_reveals
- 85 G Parker and K Salter: 'Taking stock of neighbourhood planning in England 2011-2016'. *Planning Practice & Research*, 2017, Vol. 32 (4), 478-90
- 86 G Parker, K Salter and H Hickman: 'Caution: examinations in progress – the operation of Neighbourhood Development Plan examinations'. *Town & Country Planning*, 2016, Vol. 85, Dec., 515-22
- 87 M Wargent and G Parker: 'Re-imagining neighbourhood governance: the future of neighbourhood planning in England'. *Town Planning Review*, 2018, Vol. 89 (4), 379-402

years of implementation. From the existing evidence it appears that in general Local Plans have reduced their policy scope – a reflection of the clear national priority to allocate sites for housing. There is no comprehensive evidence on whether Local Plan policies are being implemented as a whole. Where research does exist on issues such as affordable homes, it is clear that there are widespread failures to achieve the targets in plan policy and as a result to meet the need for genuinely affordable homes.⁸⁸

The development of city-regional and strategic plans is progressing slowly, led by the formation of combined authorities. There is no simple or way of describing combined authorities in England or the corresponding varying devolution deals, which include differing planning powers. There is strong academic commentary on combined authorities, and a very useful typology of the differing kinds of combined authorities has been produced by Professor Alan Townsend (see Fig. 8 on the next page).⁸⁹ Some combined authorities, such as that for Greater Manchester, are the product of devolution deals which grant formal planning powers. In other cases, combined authorities have less formal strategic plans – such as that for Leicester and Leicestershire. There was limited evidence on the success of these processes as they are all at an early stage and highly variable in character. Some respondents were very positive about the reinvention of strategic approaches and about how this could lead to solutions in the provision of homes and infrastructure. Others highlighted the fragility of the process and the tendency not to reveal deep political divisions between the emerging partnerships, or the lack of clear governance structures. The strong academic commentary on this issue highlights, among other things, the question of how the ‘in-between’ places which are not yet part of any

devolution deal nor part of a functional city region will be dealt with.⁹⁰

Development management has been subject to more modest review and reform, and the performance on planning applications is impressive. For major housing schemes, 66% were approved in 2005. In 2016/17 that figure had increased to 80%. In 2016/17 84% of major housing applications were agreed within the 13-week deadline or in an agreed deadline with the applicant.⁹¹ Issues of delay and service quality are emerging strongly from applicants, and the tension between speed and quality remains a shared concern across the sectors.

It is hard to conclude that the planning system is not producing enough consents, or that planning consents are subject to a general problem of delay (although there is obviously frustration on individual schemes and on the time taken to resolve reserved matters). However, it is also hard to conclude, even when tested against the residualised policy ambitions of the 2018 NPPF, that the current system can be judged to be wholly ‘successful’. Given the level of intensive reform devoted to the system over the last eight years, the results on the overwhelming government priority of housing delivery are unimpressive. Reform has been intensive, but it has also been piecemeal, adding to a sense that some respondents described as ‘bewilderment’ as to the overall objective of government. In so far as there has been a narrative, respondents felt that it was about getting planning ‘out of the way’. Some respondents in the private sector approved of this culture, but others believed it added to a general sense of demoralisation in the planning service. One emerging paradox about this reform is that, while it has deregulated some aspects of planning, it has added a great deal of procedural complexity, illustrated by the labyrinthine

Notes

- 88 *Planning for Affordable Housing*. TCPA, supported by the Nationwide Foundation, Oct. 2018. <https://www.tcpa.org.uk/planning-for-affordable-housing-report>
- 89 A Townsend: ‘Combined authorities – where next?’. *Town & Country Planning*, 2017, Vol. 86, Sept., 343-53
- 90 *Ibid.*
- 91 LiveTable P120A: ‘District planning authorities – planning applications decided and granted, performance agreements and speed of decisions on major and minor residential developments’. Ministry of Housing, Communities and Local Government. <https://www.gov.uk/government/statistical-data-sets/live-tables-on-planning-application-statistics>

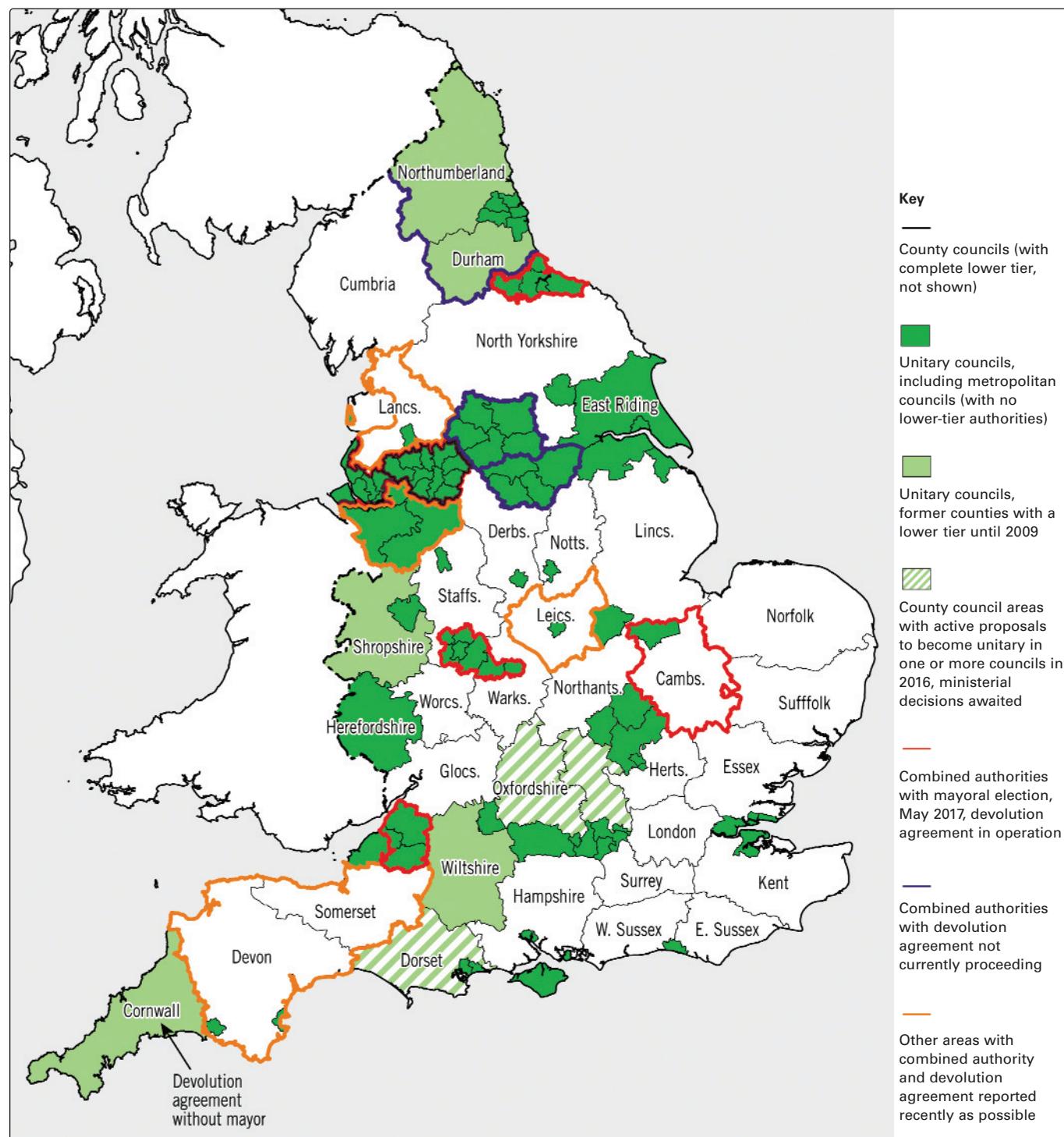


Fig. 8 Combined authorities as of May 2017 from the available building blocks – upper-tier local authorities
Source: A Townsend: 'Combined authorities – where next?'. Town & Country Planning, 2017, Vol. 86, Sept., 243-53

amendments to planning legislation and perhaps most obviously seen in complex new mechanisms such as 'permission in principle'. What has become increasingly evident during the course of the Review is that some changes, such as aspects of permitted development, have created extremely poor living conditions for people. And if the government's reform objective was the simplification of the planning system, it has plainly failed.

The adoption of a broader test for the planning system based on the kinds of objectives reflected in traditional notions of planning for sustainable development provides an even more challenging picture. The evidence here focused on the abandonment of the notion of holistic place-making, and respondents raised a range of concerns, including:

- insufficient amounts of genuinely affordable housing;
- a lack of concern with health and wellbeing;



There appears to have been a decline in the setting and monitoring of design standards

- a failure to plan for key infrastructure provision, and especially for health and educational facilities for new development;
- the de-prioritisation of biodiversity as a planning consideration;
- the failure of planning to value and protect designated heritage assets, and a loss of heritage expertise in local government;⁹²
- the exclusion of communities from key planning decisions on housing and energy;
- private sector frustration with an ever-changing system and poor service;
- poor build and design quality;
- a failure to enforce basic conditions;
- the lack of sustainable transport infrastructure;
- the use of viability testing to water down plan policy requirements, particularly for affordable homes;
- a lack of basic social infrastructure such as shops, community centres and accessible employment; and
- complex and regressive taxation measures through Section 106 agreements and CIL.

Despite being strongly represented in the submissions to the Review, the extent of some of these problems requires further research. While it is possible to verify a host of poor-quality design outcomes that result from permitted development, we cannot be sure of the extent of poor design outcomes in development which was subject to a full planning permission.

The Review team were presented with numerous examples of poor-quality development, but we cannot say precisely what proportion of the total this represents. One firm of leading architects commented: ***'This is a contractor- not designer-led process in which quality control has been side-lined so schemes can be value engineered to the lowest common denominator. The result is shockingly poor design and dubious build quality.'***

In so far as we do have evidence, for example on local authority monitoring of housing quality, the results confirm a decline in the setting and monitoring of design

Note

92 A concern recorded in the written submission from English Heritage

Table 3

Numbers of councils using housing quality indicators in their authority monitoring reports between 2012 and 2017

| Housing quality indicator | 2013 | 2014 | 2015 | 2016 |
|-----------------------------------|------|------|------|------|
| Building for Life | 29 | 15 | 14 | 2 |
| Lifetime Homes | 12 | 15 | 3 | 0 |
| Code for Sustainable Homes | 21 | 18 | 6 | 0 |
| BREEAM | 11 | 8 | 2 | 0 |
| Other | 8 | 10 | 4 | 0 |
| None | 276 | 286 | 304 | 325 |

Based on publicly available annual monitoring reports accessed online between 2017 and February 2018. Councils that did not have annual monitoring reports accessible on their website were entered under the 'None' category above

standards (see Table 3). The reduction in central and local government monitoring of the outcomes of planning reform is a major issue, and negatively impacts on our understanding of planning practice and how it might be improved.

Beyond the detail of design, there was evidence from an RTPI (Royal Town Planning Institute) study⁹³ that, overall, the location and scale of new development was sub-optimal. The study was designed to increase understanding of changing settlement patterns and urban forms in 12 fast-growing English city regions. It mapped planning permissions for over 226,000 new houses granted between 2012 and 2017, focusing on major schemes of 50 or more units. It measured the size of each scheme and its relationship to the existing built-up area, and analysed its proximity to major employment clusters and key public transport nodes – just some of the factors that make for a sustainable location.

The RTPI study found that in these city regions new housing is being located relatively close to jobs, with 74% of permissions within 10 kilometres of a major employment cluster. However, it also found that over

half of the houses permitted were not within easy walking or cycling distance of a railway, metro or underground station. This suggests that current policies do not go far enough to ensure that housing is delivered in the most sustainable locations.

**Evidence theme 3:
The powers of the existing system**



The central problem of plan implementation is where the public planning authority has neither the resources nor powers to directly implement a plan and depends to a large extent on private sector organisations to bring forward developments
Submission from the Highbury Group⁹⁴

There was a clear weight of evidence to suggest that the planning system is significantly less powerful than it was in 2010, or indeed at any time since 1947. The concerns raised by some respondents are supported by the actual legislative changes to the extent of permitted development rights. Care is needed not to describe these routes to consent as not requiring any form of

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93 'Location of development'. Research webpage. Royal Town Planning Institute, May 2018.
<https://www.rtpi.org.uk/knowledge/research/projects/location-of-development/>

94 An independent group of housing, planning and related professional specialists from the public, private and independent sectors

permission. Prior approval for permitted development does require consent, but the core issue is the fundamental limitation on the kinds of issues that local planning authorities are allowed to consider. They cannot require a range of place-making standards which might be expected through the normal full planning permission route.

One counter-argument presented in evidence asked whether such a permissive and 'light-touch' system led to any real harm. However, government has undertaken no research on the issue of quality, and even the figures on the amount of such development are unclear. For example, while we have estimates of how many units have been created through permitted development, we do not know the total of currently unimplemented permitted development consents for housing units. The Review gathered a number of case studies on the kinds of development which result from permitted development, and some examples are clearly very worrying. These examples illustrate:

- the creation of homes in areas such as industrial estates which are often isolated and lack basic social facilities;
- the loss of affordable housing contributions;
- the lack of meaningful community engagement; and
- the lower standards secured in relation to internal space or through building regulations on energy efficiency.

The publication of a review of permitted development by RICS (the Royal Institution of Chartered Surveyors)⁹⁵ in 2018 provided a compelling evidence base on the extent of these concerns, as well as quantifying the lost contribution to affordable housing and from planning fees and exploring some aspects of development quality. The results are truly shocking. For example, the research found that only 30% of the units they examined that

were delivered through permitted development met minimum national space standards. It is significant that the recommendations of this research include a fundamental reconsideration of policy on permitted development.

Of all the evidence gathered for the Review, it was the extent and outcomes of the expansion of permitted development which gave the clearest sense of the weakness of planning in upholding wider public interest outcomes. Given the number of housing units consented through this route – around 90,000 units between 2010 and 2017⁹⁶ – it is possible to categorise permitted development as a 'shadow planning system' based on 'light-touch' land licensing. Given the government commitment to expand permitted development, this land licensing regime must now be seen as the government's potential model for the future of the system.

The weakness of the local development plan

As well as the tangible reduction in the system's legal powers, there are other indicators of a system no longer functioning as a positive public interest framework for decision-making. The very high level of successful appeals during the last five years for major housing development is one signal; the related legal and policy weakness of the local development plan is another. This issue was explored in detail in the Review's Provocation Paper 1,⁹⁷ which set out the tension between international zonal planning systems and the English discretionary system, and highlighted how the NPPF had created policy and legal conflicts between a plan-led system and the presumption in favour of development. This paper made clear that the idea that England has ever had a plan-led system in law, policy or practice is highly dubious, and that

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95 B Clifford *et al.*: *Extending Permitted Development Rights in England: The Implications for Public Authorities and Communities*. Royal Institution of Chartered Surveyors, 2018. <https://www.rics.org/globalassets/rics-website/media/knowledge/research/insights/extended-permitted-development-rights-in-england-the-implications-for-public-authorities-and-communities-rics.pdf>

96 P Bibby, P Brindley, A McLean, J Henneberry, D Tubridy and R Dunnin: *The Exercise of Permitted Development Rights in England since 2010*. Royal Institution of Chartered Surveyors, May 2018. <https://www.rics.org/uk/knowledge/research/research-reports/the-exercise-of-permitted-development-rights-in-england-since-2010>

97 *Do We Have a Plan-Led System?* Provocation Paper 1. Raynsford Review. TCPA, Jul. 2017. <https://www.tcpa.org.uk/raynsford-review>

this confusion has created multiple problems for communities, infrastructure providers and developers.

It is significant that respondents from across all sectors appear to have little faith in the ‘plan-led’ system. The evidence highlighted a continued confusion in the public’s mind about how development can be approved seemingly contrary to the plan, and highlighted how such outcomes can discredit public participation in planning and the wider planning system. The majority of feedback from all sectors held that plans now carry less weight in relation to housing than they did in 2011. Some respondents did make clear that a fully up-to-date plan meeting all the NPPF tests could still be an effective way to determine decisions. The problem is that achieving this position by, for example, having an up-to-date and *deliverable* five-year housing land supply is not within the powers of local planning authorities since they do not control the build-out rates of private sector companies.

The evidence submitted from those in the public sector reinforced a view that in most places, most of the time, a development plan can be challenged and overturned where a developer can demonstrate the lack of a five-year land supply of deliverable sites.

It is significant that while other positive instruments of the planning system – such as the power to designate New Towns, which were designed to deal with rapid housing growth – are still available, central government has, so far, made no attempt to use them. New secondary legislation for locally led New Town Development Corporations received consent in 2018, but such an approach will depend on the enthusiasm and resources of local authorities. Locally led New Town Development Corporations are very different, in terms of their accountability, from the New Town Development Corporations enabled under the 1981 New Towns Act. The Review evidence includes suggestions on how Development Corporations might be expanded to deal with other major challenges, such as climate change and poverty reduction.

While the majority of the evidence submitted to the Review focused on the recent reduction in the power

of the existing system, there was a small but significant strand concerned with the broader questions of the scope of the planning system, and the case for the expansion of powers over land uses to deal with climate change and biodiversity and to create a ‘people-centred’ system which reflects human needs and behaviour. One example of this was how planning could be positively used for upland catchment planning to integrate the regulation of land uses in order to reduce flood risk and build resilience. This would require an expansion of control over agricultural land use and forestry and is particularly relevant to places such as Cumbria or the vulnerable coastal strip from the Humber to the Thames.

Evidence theme 4: The balance of power between central and local government

It was perhaps inevitable that respondents from local government, both officers and members, felt a strong sense of disempowerment in relation to many aspects of planning. They complained about too much central government interference in detailed policy, an opinion which was particularly acute among councillors. This is another issue defined by complexity and confusion. It is clear that there have always been strong reserve powers held by central government and that differing administrations have chosen to exercise them more or less extensively. There is clear evidence in the content of policy that central government is now exercising very tight control over some key planning issues, such as energy and housing. The effective removal of local councils’ ability to refuse fracking applications and the intended change to make aspects of these applications permitted development are illustrations of this tendency.

Because there has never been a clear constitutional settlement of powers between central and local government in England – in contrast to many other European nations – it is hard to make a judgement about what the right balance of power should be. This problem is exacerbated because central government no longer plays a clear role in regional or national planning

on key planning challenges such as housing delivery.⁹⁸ In the absence of national programmes for new settlements and regional strategic planning since 2011, the full weight of delivery must fall upon Local Plans. In this context national government is also inevitably going to involve itself closely in the outcomes. Many of the current reforms are driven by central frustration at what Ministers and civil servants often regard as the poor performance of local planning authorities. The problem is that such involvement raises serious questions about the point of local democracy and leads to tension, which is itself a barrier to sustainable outcomes.

The Review received extensive evidence from organisations such as the Common Futures Network⁹⁹ about both the problems of the current system of planning for England and the benefits of a national spatial framework. The proposition that such a framework (drawing on both EU practice and lessons from Scotland and Wales) could increase the co-ordination and effectiveness of housing and infrastructure investment is compelling. It was notable, however, that there was also real concern about the relationship of such a framework to local planning decisions, and about how the legitimacy of such a system might be secured.

Evidence theme 5: The structure of the English planning framework

Review Background Paper 2¹⁰⁰ showed that the structure of the English planning system has been bound up with the complex history of local government reform. Respondents suggested that the secretariat re-examine the Redcliffe-Maud Report¹⁰¹ on local government in

England, published in 1969, which remains the last comprehensive re-assessment of the principles and structures of local government. The conclusions of the Redcliffe-Maud Royal Commission remain insightful, particularly in relation to the number of planning authorities and the differing tiers of strategic and local planning. The implementation of the report's recommendations would have meant, among many other things, a reduction in the number of planning authorities and a better fit between the administrative and functional geography of England. The reasons why the report was not implemented have been discussed at length many times, but, in retrospect, they reflect the failure of the Royal Commission to match their understanding of economic geography with a grasp of the complex political geography of England. Subsequent incremental changes to local government created the confused legacy we now have.

What this means now in practical terms for delivery on the ground is a landscape of multiple agencies with competing boundaries and overlapping responsibilities. This inevitably leads to complex patterns of decision-making, which can be observed in the debate over the Cambridge-Milton Keynes-Oxford Corridor. The Review team were struck by the obvious opportunity that a comprehensive strategic planning process combined with a logical alignment of delivery agencies presents.

There was a strong overall theme in the submitted evidence around the need to deal comprehensively with the strategic planning question in away that reflects the reality of the challenges facing the nation. There were three specific strands of thinking as to how this might be done:

- Despite being seen as politically unacceptable, there was a growing call for the restoration of regional

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98 The Cambridge-Milton Keynes-Oxford Corridor is one exception to this picture in England, but even here the role of central government is unclear. Key judgements over the location of new settlements are framed by a bidding process in which central government will decide which areas to support

99 *Towards a Common Future. A New Agenda for England and the UK*. Interim Prospectus. Common Futures Network, May 2017. <http://commonfuturesnetwork.org>

100 *The Rise and Fall of Town Planning*. Background Paper 2. Raynsford Review. TCPA, Jun. 2017. <https://www.tcpa.org.uk/Handlers/Download.ashx?IDMF=ffe8fd5-734f-489d-bd9e-d4e211a91b0b>

101 *Report of the Royal Commission on Local Government in England*. Redcliffe-Maud Report. Cmnd 4040. HMSO, 1969, including the minority reports



Activities under Rotherham Metropolitan Borough Council's initiative to involve young people in debate on a child-friendly town

plans based on the standard regions. Arbitrary though these boundaries could be, they were seen as better than nothing. This suggestion was linked with the idea of producing planning guidance rather than statutory plans, which could be less complex.

- There was the suggestion of evolving the Nationally Significant Infrastructure Projects regime to take a much more extensive role in English planning and using National Policy Statements to provide a form of sub-regional plan.
- There was strong feedback about enhancing the role of county councils to develop strategic plans in those areas not covered by combined authorities.

The only serious recent attempt to deal with the strategic regional question came with proposals for elected English regional administrations in 2004. The rejection of such an option in the North East region put an end to this initiative. We should, of course, recognise that the rest of the UK has achieved a very great deal in relation to devolution, and that London remains a powerful example of how regional planning can work effectively and be accountable.

The core problem for the Review team is that the development of sensible planning structures cannot be reconciled with the structure of English local government. Nonetheless, the creation of an effective planning system requires the formulation of a ‘picture’ of how planning structures, from national to neighbourhood, might work and of the kind of governance that might offer political legitimacy at each layer. The challenge is to try to work with the grain of the highly complex and confused pattern of English local government.

Evidence theme 6: Power and local communities

We just don't have the time to engage with the people we are planning for.

Graduate public sector planner from a southern district council

The answer to the problems of planning is simple. Take it out of the hands of local politicians who often know nothing about the development needs of their areas.

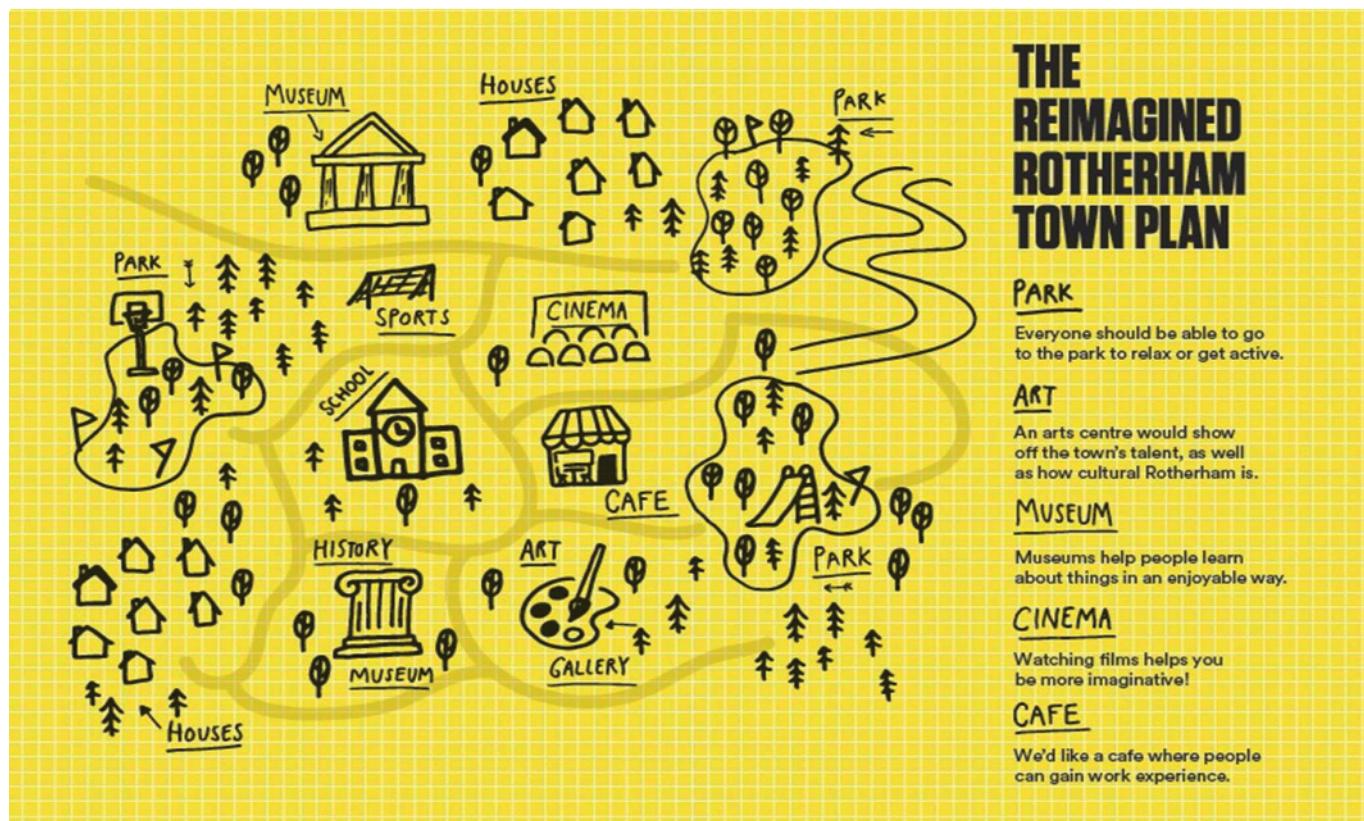
Private sector developer

I'm proud of my town but I don't think anyone outside cares about it. I don't think anyone outside (cares much) about any of us.

15-year-old resident of a town in the North West, recorded at a training event

One of the major challenges for the Review was to reach out beyond the ‘insiders’ in the planning system to communities and individuals who are its ultimate consumers. The feedback from the community sector has been very strong and mostly very negative about planning practice. There were important exceptions to this picture, such as the Rotherham Metropolitan Borough Council initiative to involve young people in a debate about the future of the town centre.

There was also very positive evidence from some neighbourhood planning groups on the way that



Schematic plan from Rotherham Metropolitan Borough Council's reimaging Rotherham discussions

Neighbourhood Plans had promoted debate and community planning skills. However, even here there was also concern about wider planning practice and, for example, the work of the Planning Inspectorate.

The evidence we examined came mainly from established civil society groups, who might be expected to have the resources to engage in planning effectively. The Review team did attempt to reach out to non-aligned community groups, who were often trying to engage in planning for the first time in relation to a range of development proposals. We did this through attending a number of community and protest events, which, while strictly limited in extent, did give a flavour of people's attitudes.

The responses among groups that were not part of established NGO networks could best be described as bewilderment. The position was stark in excluded communities, but even in middle-income areas there was a general lack of awareness of who made planning decisions, what rights people had to be involved, and how they could access proposals. The loss of other community support infrastructure such as libraries meant there was, in some communities, nowhere to view plans or use a photocopier. This was a particular problem for those with no internet access. The resources for organisations such

as Planning Aid for London were clearly inadequate to meet this challenge – a problem compounded by the lack of public sector planners who had time to help enable communities to meaningfully engage in the process. The result was a sense of anger about and mistrust of the planning system, which is plainly a barrier to meaningful debate about the future of communities.

There was also a real problem of community apathy, which often seemed to relate not to being consulted too much (although there were examples of this) but to the perception that such consultation did not lead to any real tangible change for the better. Plans were seen as pointless when either their contents were not delivered or decisions were made against plan policy. As one politician reflected, '**people don't have time to waste looking at plans that never seem to make any bloody difference**'. This was a particular problem in low-demand areas, where local authorities often had no effective means to implement the policy they had written into plans.

Overall, the evidence revealed a range of concerns about barriers to community participation in the local planning process:

- the power of developers to exploit and dominate the planning system – particularly the unequal access to

- professional expertise to help explain the impacts of development;
- the complex language and procedures that shape planning decisions, which were often completely unintelligible to members of the public – such language, it was suggested, was deliberately deployed to exclude non-professional input;
 - a lack of support services in responding to planning applications and a repeated question about why government funded support for neighbourhood planning but no other form of community support;
 - a lack of community engagement skills among planners;
 - unequal legal rights in the decision-making process, which reinforced the perception of a system constructed to benefit applicants;
 - anger that decisions seemed to ignore community concerns about heritage and the environment – particularly when such concerns were not about national designations but about small-scale community green space or streetscapes which were important to people's lives;
 - viability testing and the resulting loss of policy on issues such as climate change and affordable homes;
 - confusion over why elected members can or cannot offer support to communities, and a feeling that elected members could no longer represent the views of those who had elected them in planning decisions;
 - difficulty in engaging with plan preparation processes, and anger that consultation responses are not taken seriously – the way that such responses were summarised by officers was often felt to be dismissive;
 - concern about the quality and design of development, and particularly over why new housing '*all looks the same from Bristol to Bradford*' and lacked proper supporting social facilities for health and education;
 - anger that Neighbourhood Plan policy can be easily overturned by the Planning Inspectorate;
 - anger that some new strategic plans had no effective accountability to the public at all;
 - frustration at the lack of enforcement action on conditions relating to working hours, and a failure to check that what is built is actually what has been approved;
 - concern about making the voice of the public heard in the Nationally Significant Infrastructure Projects process; and
 - anger at the perceived 'purchase of planning permission' through Section 106 agreements.

Attitudes to the National Significant Infrastructure Planning (NSIP) regime were divided, with the private sector keen to use the NSIP consent regime as a model with much broader applicability, while communities appeared to find the process even more remote. There was little evidence to suggest that the public are aware of or are encouraged to have a meaningful say in the preparation National Policy Statements, despite their determinative weight in decision-making. There was no attempt to follow the example of the Welsh Government in promoting a 'national conversation' on development priorities, which remains an insightful case study.¹⁰² The Review noted the conclusion of the ESRC-funded research conducted by University College London¹⁰³ into the process of approving major renewable energy projects through the NSIP regime. The research found real public concern about meaningful participation in decision-making and recommended, among other things, funding support for communities who were trying to participate in decisions.

The Review received a great deal of evidence from communities affected by the HS2 project, which is being consented through the Hybrid Bill route. The concerns were broadly similar to those expressed

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102 See the Welsh Government's 'National Development Framework' webpage, at <https://gov.wales/topics/planning/national-development-framework-for-wales/?lang=en>

103 Y Rydin, M Lee, S Lock and L Natarajan: *Evidence, Publics and Decision-Making for Major Renewable Energy Infrastructure*. University College London, Dec. 2017. https://www.ucl.ac.uk/nsips/pdfs/Final_Findings_Recommendations

about the generality of planning but had four distinctive aspects:

- bewilderment over how communities were meant to understand the process of petitioning Parliament and a lack of any resources to support them in doing so;
- the failure of the HS2 company to organise sufficiently fine-grain consultation events;
- the lack of any real meaningful conversation about the merits of HS2 – **'It's just assumed that it's good for us'** was the view of one community respondent; and
- the widespread use of confidentiality agreements by the HS2 company with the local authorities along the route – these agreements not to disclose information to the public on a broad range of issues may serve a legitimate purpose in the eyes of those charged with the delivery of the project, but they have created real anger among local politicians and even more resentment from affected communities when they have discovered their existence.

One leader of a local authority who had signed such a confidentiality agreement stated to the Review team that they exemplified '**a failure to approach participation in an open and inclusive way which might build some trust. Instead they create a sense that the public are a constituency to be kept in the dark until such a time as their voice is effectively meaningless. Whatever the commercial benefits of such agreements they are absolutely not in the public interest.'**

All these issues contribute to a sense of grievance that planning does not reflect community needs. Some of this may stem from a lack of knowledge of what planning is trying to achieve (and this is most obvious in relation to Green Belt development), but it also relates to a disconnection between the values and

practice of planning and the communities it is meant to serve. It is also important to note that communities often no longer believe that their local authority has the power, or sometimes the will, to uphold the public interest. This both reinforces a general absence of trust in planning and explains the call for direct community rights.

While there were mixed views on neighbourhood planning, it was clear that some respondents regarded this process with genuine enthusiasm. There is no doubt that the drive towards Neighbourhood Plans was regarded by the community sector as the core positive outcome of the planning reform process. The Review received detailed and valuable evidence on how Neighbourhood Plans could be expanded in scope and the process of preparing them could be improved.¹⁰⁴ There is equally a rich literature on some of the delivery record of such plans, including the key conclusions about which kinds of communities most often take the opportunity and on the highly variable policy content. For example, research undertaken by the Centre for Sustainable Energy found that only 7% of Neighbourhood Plans had any policy on climate change.¹⁰⁵

The Review also received some important counter-evidence from the development sector about the challenges of working with communities and campaign groups. There was some positive evidence of best practice in promoting dialogue, but there was also a view that well resourced campaign groups distorted information and created '*a toxic political environment where it was impossible to make any real progress*'. At its worst this could lead to single-issue groups taking control of local authorities with an 'unthinking anti-development attitude'. In this context the development sector relies on national policy and the planning appeal route to bypass what it sees as wholly unreasonable local behaviour. There was also real

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104 T Cherrett, D Farnsworth, H Stacey, J Sturzaker, P Tollitt and S Thomas: *Plans that Measure Up – Making Planning Fit for Purpose at Local and Neighbourhood Levels*. Report of the TCPA Local and Neighbourhood Plan Task Team. Town & Country Planning Tomorrow Series Paper 19. Inserted in *Town & Country Planning*, 2018, Vol. 87, Aug.

105 See the Centre for Sustainable Energy's 'Sustainable Neighbourhood Planning Support' webpage, at <https://www.cse.org.uk/projects/view/1343>

disquiet among developers about the use of judicial review by communities against proposals which, although in accordance with planning policy and/or consented through planning applications, could be ‘endlessly’ held up by technical legal arguments.

Finally, the Review received some interesting and positive examples of how university planning schools could use their resources to support community planning. Several planning schools have already developed or are developing ‘live projects’ that involve students working with communities as clients (for example University College London’s work with Just Space in London, and Newcastle University’s involvement with Newcastle City Futures), but such initiatives are not currently a mandatory element of planning education.

It is hard to draw general conclusions from evidence which often related to an individual case, but two self-evident issues do emerge:

- On the whole, the development sector is far better resourced than communities to engage in the planning process, and this leads to systemic feelings of ‘unfairness’. There is a related and important issue that communities often do not see their planning authority as capable of defending them by upholding the wider public interest. This relates to the perceived dominance of national planning policy and the limited local government resources available to support communities.
- The English planning system is defined by deep-seated mistrust and conflict between the key players. It was best described to us by one senior local government politician as *‘at best bad tempered and ill-mannered and at worst like a pub brawl’*. This problem is long-standing and deeply rooted in the culture of local politics. It is also a crucial barrier to investment, good governance and the achievement of sustainable development. Rebuilding trust in planning among all the sectors is a vital objective for future planning reform, with multiple benefits for everyone.

Note

106 *Civil Society Strategy: Building a Future that Works for Everyone*. Cabinet Office. HM Government, Aug. 2018.
<https://www.gov.uk/government/publications/civil-society-strategy-building-a-future-that-works-for-everyone>

The Civil Society Strategy

It is significant that the government’s own Civil Society Strategy, published in the summer of 2018,¹⁰⁶ reflects some of these concerns and the ‘burning injustices’ which impact upon our society. The strategy recognises the powerful role of the built environment in people’s lives but does not address some of the obvious inequalities in the planning system, such as the very weak opportunities for public engagement in strategic planning, the unequal distribution of rights, or the very uneven take-up of neighbourhood planning. Nonetheless, it is significant that the government acknowledges that decisions relating to the built environment are key to the wider debate on rebuilding trust and empowering communities. The question is what practical measures might make the relationship of people and planning more meaningful.

Outcomes for people?

While most of the evidence that the Review has received on this issue was focused on the process of planning, there was a significant strand which focused on the need for minimum outcomes for people in terms of a right to a home and basic decent living conditions. One strand of this evidence, discussed in Section 4, concerned the implications of the Grenfell Tower tragedy and the degree to which planning decisions upheld the safety and wellbeing of residents. The wider concerns on outcomes extended to build quality, space standards, air pollution, and wider place-making, and particularly to the impact of the conversion of commercial and office buildings to housing units.

There was also concern raised in submissions that, while community participation may be a non-negotiable part of our democracy, there must be safeguards against its use by sectional interests to prevent those in greatest need having access to basic decent living conditions.

Evidence theme 7: The collection of betterment values through fair land taxes

Debate has raged in this country over the right way to recoup the share of the profits from land development that rightly belongs to the community, since public agencies have had to provide much of the physical and social infrastructure, and since the land values arise in large measure through the grant of planning permission. What has eluded us is... a way of capturing the added value that is effective, efficient in operation and politically acceptable enough to be stable over time.

Peter Hall and Colin Ward: *Sociable Cities, Second Edition, 2014*¹⁰⁷

The behaviour of land speculators and intermediaries in the development process is a major barrier to sustainable outcomes. Driving them out of the market is one vital objective of a reformed betterment tax system.

Senior planning consultant

The issue of land tax and betterment has featured in many of the Review's engagement events, both as a matter of principle and in relation to the opportunity to provide vital infrastructure.

When the Review began, capturing land values was regarded as an extremely complex and highly controversial topic. **During the course of the Review this position has changed radically to a point where there is a cross-party consensus on the value of some form of betterment taxation.** While there is wide agreement on the principle of a fairer distribution of the windfall payments which landowners currently

receive, there is no consensus on the level of value to be recouped, nor on a mechanism through which this might happen.

Because of the complexity of the betterment tax issue the Review team produced a separate and detailed explanation of development and the current state of land value capture in Review Provocation Paper 3,¹⁰⁸ including a more detailed justification of the approach suggested in Section 6.

The Review team have also contributed to, and benefited from, the publication of the House of Commons Communities and Local Government Committee report on land value capture,¹⁰⁹ which provides a comprehensive analysis of the issues and whose recommendations the Review team have carefully considered and support. This report provides one of the best condensed summaries of a complex issue. We are also aware that the Letwin Review has made important recommendations in relation to land value capture, and while these were published as this Report went to print we have endeavoured to reflect their implications in our final recommendations.

In relation to the submitted evidence and given the complex literature, nine key messages emerge:

- Betterment values can be generated by a range of actions by public authorities, but the grant of planning permission is one of the most important and can increase land value by a hundred times its existing-use value.
- These values often end up with landowners when they could be of public benefit.
- There have been three major attempts to tax values, and all have failed because the balance between what landowners expect and public benefit could never be reconciled.
- We do tax betterment to a degree now. Section 106 agreements, the Community Infrastructure Levy,

Notes

107 P Hall and C Ward: *Sociable Cities: The 21st-Century Reinvention of the Garden City*. John Wiley & Sons, 2014. Second Edition

108 *Do We Need a Betterment Tax?* Provocation Paper 3. Raynsford Review. TCPA, Oct. 2017. <https://www.tcpa.org.uk/raynsford-review>

109 *Land Value Capture*. HC 766. Tenth Report of Session 2017-19. Housing, Communities and Local Government Committee. House of Commons, Sept. 2018. <https://publications.parliament.uk/pa/cm201719/cmselect/cmcomloc/766/766.pdf>

capital gains tax and stamp duty land tax all recoup some betterment value, but none of these measures are efficient or completely transparent.

- Even with these taxes, there is headroom in high-demand areas for greater recouping of values.
- This requires greater clarity on acceptable returns to landowners and on the way we calculate market values, to exclude matters such as hope value.
- Harnessing these values is not like having a money tree, but it could vastly improve the quality and deliverability of new development.
- None of this does anything for those areas with low or negative land values; so how can we use betterment values to support their regeneration needs?
- Specific aspects of current government policy have transferred very substantial betterment values to certain private property interests. A recent RICS study found that '***Overall, office-to-residential PD [permitted development] has been a fiscal giveaway from the state to private sector real estate interests, while leaving a legacy of a higher quantum of poor quality housing than is seen with schemes governed through full planning permission.***'¹¹⁰

Evidence theme 8: The skills, morale and capacity of planners

On the one hand the university is teaching me that our generation is the one that could change approaches to planning to make it a tool to create positive outcomes. And on the other, I have the firm I'm working for contradicting all of this. They make me feel as if planning is a lost cause and all aspirations to create better places are not practical or achievable.

MA student

I didn't get into to planning to approve crap places for people who can't afford any better.

Senior public sector planner

We have some of the best planners in the world, but we rarely get the chance to apply those skills to their full creative effect because of the increasingly limited ambition of planning policy.

Planning consultant

I'm not going to spend money on planning when I have old people sat in their own urine.

Council leader in a large metropolitan borough

The contents of formal and informal interviews with planners yielded a picture of a service which was, in many planning authorities, in a state of crisis. This Report has already made clear that planning has been subject to some of the greatest cuts in any local government service. Given the pressures on local authority budgets over issues such as adult social care, this trend is likely to intensify. The impacts are variable, with those unitary authorities who have responsibilities for both planning and adult social care facing very

Note

110 B Clifford, J Ferm, N Livingstone and P Canelas: *Assessing the Impacts of Extending Permitted Development Rights to Office-to-Residential Change of Use in England*. Royal Institution of Chartered Surveyors, May 2018. <https://www.rics.org/globalassets/rics-website/media/knowledge/research/research-reports/assessing-the-impacts-of-extending-permitted-development-rights-to-office-to-residential-change-of-use-in-england-rics.pdf>

tough decisions. In practice this can mean prioritising basic statutory functions over the planning service. Small rural districts can also find themselves in severe difficulties, and in one authority that the Review team visited the capacity for the Local Plan process was 1.5 full-time-equivalent posts.

Even in high-demand areas that had received further capacity funding to support growth, the level of capacity on large-scale projects was disturbingly low. We received evidence that a 10,000-home urban extension had just one member of local authority staff working on the proposal – and that staff member also had other responsibilities. Similar situations were repeated in the submitted evidence and were by far the biggest concern of the private sector.

There was clear frustration that complex development schemes were delayed because of a simple lack of capacity in the local planning authority, both for planning and for complex development management. It is clear that some local authorities have fallen below a critical mass of both capacity and the skill to do the job in an effective and timely way.

While sustained reductions in local government funding is the driving force behind this trend, it is not helped by many planning functions, such as the preparation of detailed Local Plans, not being a clear legal duty on local government. As a result, when hard budgetary choices have to be made, planning is not viewed as an essential service. Unlike the head of paid service, finance, monitoring, there is no legal requirement for a senior planning post in local government. (In the post-war era chief planning officers played a crucial role in shaping the corporate strategy of local councils. Now planners are often not represented in senior management, and the planning service is seen, by some, as a peripheral statutory obligation.)

New income streams such as the New Homes Bonus and the greater flexibility to increase planning application

fees could help mitigate this picture, but New Homes Bonus money is not ring-fenced for the planning service and fee income is unlikely to offset the scale of continued budget cuts. These measures and capacity funding for high-demand areas do not address the problems faced in many low-demand and rural areas. The assumption that these places do not require a robust planning service is false. The challenges of regeneration in the North East or of dealing with the impacts of flooding in Cumbria require skilled and properly resourced planning.

Skills and education

If capacity was a dominant concern in the evidence, there was also feedback about planners' skills. These issues were raised by the private and public sectors and were focused on matters such as viability testing, strategic planning, large-scale new and extended settlements, climate change, new energy systems, retail planning, and community participation. Some of these issues are genuinely new, but others often reflect a lack of capacity rather than a lack of skills.

However, because planning is operating within a set of dynamic social forces, planning education and Continuing Professional Development need to be able to rapidly reflect such changes. Each sector has differing requirements from the service but a common strand in the evidence was the need for graduate planners to have practical experience of the planning system and to be able to effectively engage with a range of stakeholders.

There was an active debate in the planning schools and in the literature about how best to equip planners for their demanding role. As Rooij and Frank argue,¹¹¹ in a world of super-complexity, '*students/planners literally need to 'live' with uncertainty and make decisions with incomplete data and evidence, or with an abundance of conflicting (big) data... [and] the learning environment of planning programmes needs to facilitate the*

Note

¹¹¹ R Rooij and A Frank: 'Educating spatial planners for the age of co-creation: the need to risk community, science and practice involvement in planning programmes and curricula'. *Planning Practice & Research*, 2016, Vol. 31 (5), 473-85

development of a disposition to live with the uncertainty of not knowing’. Exposing planning students to dilemmas and uncertainties in the real world requires the strengthening of mutually beneficial university-community engagement initiatives so as to provide students with opportunities to further develop their practical skills. This would also have the benefit of providing community partners with access to increased knowledge and technical know-how.

The difficulty of recruiting planners has become a real issue, compounded by planning departments offering early retirement, which has resulted in the loss of a great deal of experience in the service. Reductions in local planning authority training budgets mean that planners often cannot afford to travel to training events or conferences. One implication of this, noted in the work of the TCPA, is that local government is not always finding ways of sharing good practice which could increase performance and save money.

Elected members play a crucial role in the planning service and their skills and education on planning were identified by all sectors as a major area for improvement. The extent and quality of training for councillors was highly variable, and it was not clear that such training was refreshed despite the rate of change in planning law and policy. One elected member from the South West commented that ***‘planning training is basically a long list of things I can’t do or that my planners don’t want me to talk about. It leaves you wondering why the hell we bother turning up to planning committee’.***

There was agreement that key knowledge is often missing on issues such design and health, strategic planning, climate change and the kinds of positive built environment solutions represented in best practice in the UK and internationally.

The morale of planners

Some of the most poignant evidence received by the Review was in interviews and off-the-record conversations with public sector planners. There was real anger among a number of senior planners who

believed that they were now being asked to administer a system whose objectives led, far too often, to poor outcomes for people and failed to deliver long-term place-making. This, they felt, was deeply against the values which brought them into the profession.

There was understandably a reluctance to reflect this view on the record, but it was repeatedly expressed, and some senior managers were clearly struggling to keep the morale of their teams on track – a position made worse in those local authorities where corporate level management regarded planning solely as a regulatory activity. The examples planners identified were very poor-quality housing outcomes, the lack of time to work with communities in a meaningful way, and the poor status of planning in some parts of local government, which meant that planners did not feel that their professional advice to politicians was taken seriously.

Graduate planners and students provided perhaps the best illustration of this tension between the values of the professional planner and the system in which they now must operate. Graduate planners exhibited a real disappointment that the world-changing activity they were inspired to be part of turned out to be little more than ‘traffic wardens’ for land. With no disrespect to traffic wardens, this reflects a feeling that the system is no longer a place where ambitious and creative solutions to a range of society’s problems can be played out.

The Review team were struck, despite all of this feedback, by the number of skilled and committed planners still working in the planning service and doing their upmost to uphold public interest outcomes and the welfare of their communities. ***In doing so, they often made clear that this was despite the planning system, and not because of it.*** It is also clear that if planning is a key public service it needs to be properly resourced, and this could significantly increase the level of service to all sectors.

Evidence theme 9: The lessons from international planning systems

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Why isn't Rotherham Freiburg? Because they (Freiburg) have real power over the things that matter. On public transport, health, education and planning all we can do is shout from the sidelines. We need the powers to deliver.

Elected member

The Review team were struck by the wealth of international good practice and learning which could inform the future development of the English planning system. The planning literature contains a rich strand of work which records, in detail, the successes and failures of comparable planning systems.¹¹² While we could find no example of a system which has undergone such continuous and radical reform as the English system (an important finding in itself), all other systems are subject to a measure of change, not least that of the Netherlands. All systems also have extensive critical literature in relation to certainty, quality, democracy and taxation.

Despite occasional Ministerial visits and brief references to international examples of 'zonal' planning, the reform agenda in England has not been informed by a comprehensive reflection on the international experience. This is despite the consistent narrative, underlying the English conversation about planning, that other countries such as the Netherlands are capable of both much higher rates of housing delivery and much higher housing standards. While the reasons for this 'success' are complex, the messages which often appear to inform government policy in England can be highly simplified. One example is the introduction of 'permission in principle', which was adopted as a measure to drive a more zonal planning approach but which in practice is an odd hybrid with no international comparison.

It is an attempt to introduce a European form of zonal planning into a UK discretionary system, a collision of ideas which makes little sense. This example illustrates the need for a full and nuanced understanding of the very different objectives, institutions, culture and politics of different systems, rather than an expectation that the extraction of single good ideas can serve as quick fixes for long-standing problems of our own.

While England may be missing an opportunity to learn valuable lessons from abroad, it is not always clear that the country is learning from the other regions and nations of the UK. While formal conversations between the devolved nations do take place, there is less evidence of any detailed learning from the now diverging planning systems in Northern Ireland, Scotland, and Wales. Given that there remains some institutional and cultural commonality between the systems, this learning would appear to be most immediately applicable to England.

Examples of this rich learning are:

- the commitment to statutory objectives for planning – for example in Wales around the Well-being of Future Generations (Wales) Act and the definition of sustainable development;
- the development of integrated community planning in Northern Ireland and its relationship with formal planning documents; and
- the debate around community rights in Scotland and the wider narrative on planning and land reform, including the consideration of a statutory purpose for the Scottish system.¹¹³

What are the key international lessons, and are they transferable?

The wider lessons from international best practice can be summarised as both tactical and strategic. At the tactical level many other nations deliver much better planning outcomes than England does. They do this by

Notes

112 P Hall, with N Falk: *Good Cities, Better Lives: How Europe Discovered the Lost Art of Urbanism*. Routledge, 2014

113 C Hague: 'Purpose is key to any system'. *Planning Resource*, 12 Jul. 2018.

<https://www.planningresource.co.uk/article/1487599/purpose-key-system-cliff-hague>

deploying a range of place-making tools relating to energy, housing, transport, culture, participation and taxation in ways which allow for a co-ordinated and comprehensive approach. Freiburg, Copenhagen, Almere and Basel can all demonstrate the application of place-making innovation which goes beyond anything currently delivered in any English city or region. Each has its own distinct problems, but overall their comparative advantage is clear in relation to indicators of carbon dioxide emissions, resilience measures, public transport use, housing provision and the design and deployment of technology in the built environment.

This tactical success is not simply the result of better policy and better planners, since the UK has some of the most skilled built environment practitioners in the world. Instead, it is founded on a set of strategic factors which are much harder to transfer into the current English planning system. These strategic factors include:

- **Regulatory stability:** In many other jurisdictions the question of the value of the planning system is seen in more pragmatic and less ideological terms, which results in fewer and less radical changes to planning rules. This is manifest in three ways:
 - In some European nations – Germany and the Netherlands, for example – a role for the state in the management of land and housing is enshrined in constitutional law, which reduces the uncertainty, evident in England, about the high-level role of planning.
 - While all systems are subject to change, many other European nations have seen much less structural change to their planning systems in the last 20 years. Where change has happened, as in the Netherlands, it has been significant but much less radical than in England. All of this enables greater certainty for those who have to work with the system.
 - Nations such France and Germany operate, in general, a much more codified and 'zonal' approach to planning. Building codes and plans are detailed and prescriptive, leading to higher levels of certainty for applicants and communities.

- **Institutional clarity:** The institutions of planning, from those of the local municipality to the role of national government, tend to be set out in constitutional law so that responsibilities and powers are not subject to constant renegotiation and change. Again, the systems are not without tensions, but the German federal constitution creates a powerful institutional structure which is reflected in the planning framework.
- **Powerful and positive municipalities:** Perhaps the *most important* factor in how European municipalities drive better outcomes¹¹⁴ lies in their control of the levers of change. A city such as Freiburg has control of land assembly, transport delivery, housing policy, energy generation and distribution, and investment funding. Crucially, Freiburg has much more influence over health and educational provision. Such a framework allows for the co-ordinated delivery of long-term strategy by giving real power over the key factors in successful place-making. This allows municipalities to act as master-developers, and one example of the benefit of this approach is the way that large sites can be purchased, serviced and then broken up into smaller parcels to encourage a much more diverse housing supply market.
- **Clear land taxation measures:** Some of the most successful examples of effective planning in Europe are backed by betterment taxes which tend to be more effective and codified than those in England. Such approaches can range from freezing land values at their current use when land is designated for development, to a much more active role for municipalities in buying, servicing and then selling land for development. The existence of plans and building codes with a much greater weight in decision-making reduces land speculation and makes absolutely clear the cost which will accrue to those developing land in terms of policy requirements.
- **The availability of local finance:** One final key factor in the success of many European planning models is the availability of investment finance through decentralised institutions such as the

Note

114 P Hall, with N Falk: *Good Cities, Better Lives: How Europe Discovered the Lost Art of Urbanism*. Routledge, 2014

German Sparkasse or savings banks, which lend for housebuilding, or national banks, which specialise in infrastructure investment brought forward by municipalities.¹¹⁵ England once had an equally vibrant local banking sector and a strong record of municipal investment, but this is now largely no longer so, with a highly centralised sector and no national investment institution. There is a significant body of UK literature on how this might be changed, but access to finance that is sensitive to local needs and is available at the right cost is a vital pre-condition for the effective delivery of new and renewed places.

While the comparative lessons from international planning systems are complex, the factors that drive more successful outcomes are, in principle, straightforward. They are centred on a clear and powerful role for the public sector in creating the conditions for growth by co-ordinating a range of key place-making factors. Risks to the private sector are reduced by a greater weight given to plans and building codes, and as a result land speculation can be reduced. **It is this combination of regulatory certainty, along with a powerful set of levers for change, which is significantly absent in the English system.** A small city in England simply has much less control over transport, education, health and investment than an equivalent in Denmark, Germany, France or the Netherlands.

Evidence theme 10: The opportunity to use new technology in planning practice

There is ongoing active debate about the potentially transformational role of new technology in the planning process. This is related partly to the ‘Smart Cities’ aspiration to use data and new technology to transform

how we understand and plan for urban development, and partly to a focused debate on how digital innovation and urban data might improve the planning process. Future Cities Catapult are taking a leading role in such thinking.¹¹⁶

The question of how big data can be applied through new technology to the planning of cities has been around since the late 1960s, and there are important lessons from previous experiments where it was assumed that the existence of such data would speed up and de-politicise planning decisions. Such an assumption proved false, but this should not detract from the opportunity to increase public understanding of and access to decision-making on the key challenges facing communities through the use of digital tools.

There is compelling evidence that new technology could transform an essentially analogue system and one where data is often held in ‘useless’ formats to one framed around the intelligent use of the wider range of data already being collected by some technology companies. The benefits could involve the automation of parts of the planning process¹¹⁷ and the provision of much more feedback on how people use spaces and buildings, so as to guide future policy development. Seen in this context, technology could help to transform the tools and knowledge base of planning for all sectors. It is significant that the degree to which this technology can be used to its full potential relates to the clarity and power of the Local Plan. If the policy in a plan is confused and vague, communicating its merits and testing its outcomes will be impossible.

The evidence also featured concern, expressed by both public and private sector planners, that social media had ‘got in the way’ of sensible debate on planning issues by allowing unmediated and often misleading information about planning decisions to be widely and

Notes

115 P Hall, with N Falk: *Good Cities, Better Lives: How Europe Discovered the Lost Art of Urbanism*. Routledge, 2014

116 See the Future Cities Catapult website, at <https://futurecities.catapult.org.uk/project/future-of-planning/>

117 Automation for some forms of simple application could allow the allocation of officer time to be more proportionate. One prototype for this is the work Open Systems Lab has been doing with Southwark, Wycombe and Lambeth Councils on PlanX (<https://www.planx.uk/>). Open Systems Lab calculates it could save councils across England almost 100,000 hours annually

speedily circulated. Understandably, activists often took a different view and believed that such tools helped to rebalance the perceived dominance of applicants in the planning process. The problem of ‘fake news’ relates to a much wider debate about the role of social media in our governance, but it illustrates a problem that all information platforms, from virtual-reality visualisations of urban development to a Facebook campaign, are capable of distortion.

The issue of ‘fake news’ is now subject to an inquiry by the House of Commons Digital, Culture, Media and Sport Committee,¹¹⁸ and remains a problem for local planning decisions because of the rapid decline of local news outlets staffed by professional journalists.

There is no doubt that new digital tools could prove very powerful in the planning process. However, like all tools they are value-neutral and capable of being applied in ways which illuminate or distort planning decisions. Their application in planning should not be seen as a panacea and is not a replacement for answering the fundamental question about the relationship of people, planning and power. The greatest opportunity lies in using such tools for a longer-term culture change in awareness of planning issues and to build greater community understanding of long-term planning challenges. This still requires trust to be built between local authorities and communities and for data sources to have a pedigree of independence.

Finally, there is an overwhelming case for the greater use of digital resources by local planning authorities both to aid the process of planning and to speed up its administration. The Review team were struck by the number of places still not maximising the potential of, for example, digital mapping. We were also struck by the large number of competing digital tools. This opportunity is accepted by all sectors and by government and is restricted only by the resources available for investment by local authorities.

Note

118 House of Commons Digital, Culture, Media and Sport Committee Inquiry on Disinformation and ‘Fake News’.
<https://www.parliament.uk/business/committees/committees-a-z/commons-select/digital-culture-media-and-sport-committee/inquiries/parliament-2017/fake-news-17-19/>

Evidence theme 11: The real-world challenges facing planning

One of the strongest pieces of feedback presented to the Review after the publication of the Interim Report was on the need to properly articulate the big issues that the planning system will have to tackle. The powers, governance and structures of planning have to be designed to deal with the scale and the character of the future global and local challenges confronting society. One example of this relationship was the use of New Town Development Corporations to deal with the post-war housing crisis, which was seen to be of such a scale as to be beyond the scope solely of local planning.

Planning is about the management of change, and the planning system has always had to respond to what people regarded at any given time as unparalleled technological advances, from the rise of the private car to rapid de-industrialisation. Many of the challenges confronting us now are depressingly familiar: growing regional inequalities, the quality and affordability of homes, and the co-ordination of new infrastructure. However, there are some changes in our immediate future which seem to raise new kinds of challenges for how we plan for a sustainable future. These challenges are in fact well understood and backed by detailed research and analysis. The government’s Foresight projects on land use, cities, skills and learning, identity, etc., along with bodies such as the Committee on Climate Change, provide a wealth of evidence on these issues, and it is significant that this learning does not, on the whole, find expression in documents such as the NPPF. Three of these issues serve as illustrations of the nature of the problems we will need a renewed planning system to help manage, as set out in the following.

The demographics of growth and ageing

While recent ONS (Office for National Statistics) population estimates show a slowing of the rate of

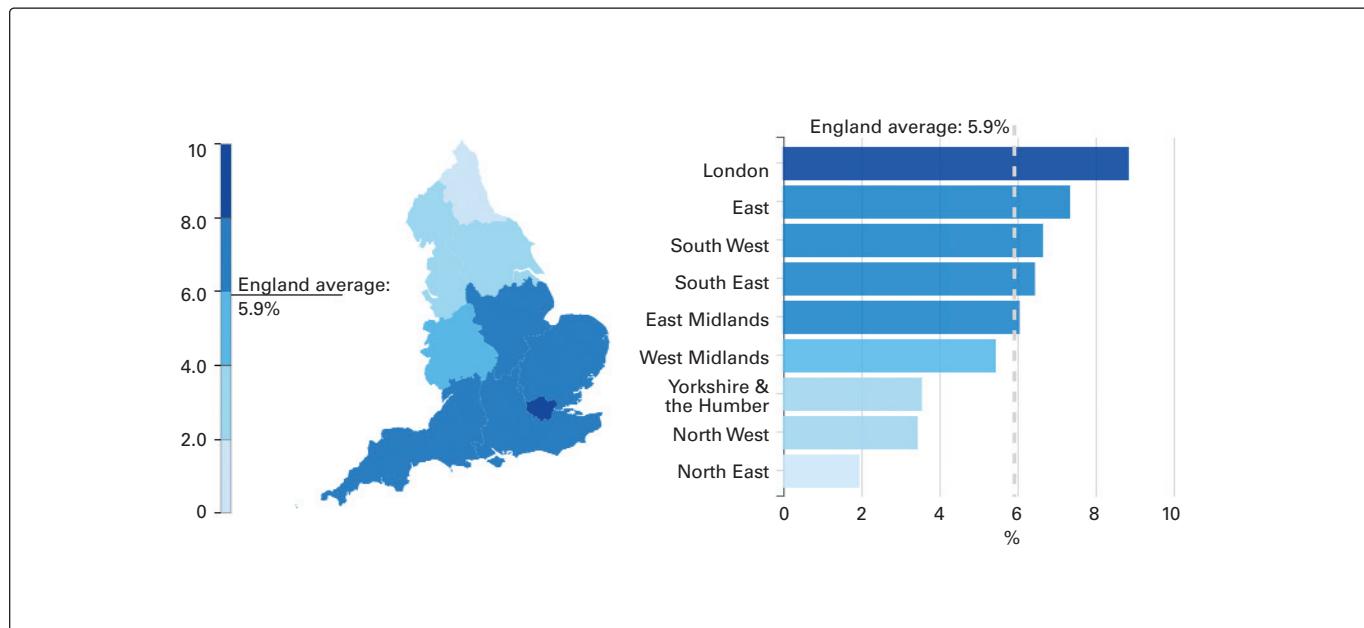


Fig. 9 Projected percentage population change for regions in England, mid-2016 to mid-2026

Source: *Subnational Population Projections for England: 2016-Based*. Statistical Bulletin. Office for National Statistics, May 2018

population growth in England, they record an increase of 5.9% or around 3.2 million people from 2016 to 2026.¹¹⁹ This growth is demanding, particularly when it is overwhelmingly focused in the South of England (see Fig. 9), with 15 authorities in the North seeing absolute population decline. While there remains some uncertainty about likely size of the total population in England after Brexit, there is no doubt that our population is ageing. By 2040, nearly one in seven people is projected to be aged over 75.

These trends will have major and complex impacts on all our communities. The Office for Budget Responsibility projects total public spending, excluding interest payments, to increase from 33.6% to 37.8% of GDP between 2019/20 and 2064/65 (equivalent to £79 billion in today's terms), due mainly to the ageing population. There is a social care for elderly crisis expressed in challenges faced by local authorities.

To address this we need a planning system that can think about human behaviour, recognising the contribution that everything from the provision of public toilets, to an inclusive public realm, to accessible and adaptable housing types, can make to enhancing people's lives – and saving costs. As the Foresight report *Future of an Ageing Population* points out:

*'Suitable housing can significantly improve life in older age, while unsuitable housing can be the source of multiple problems and costs. Poor quality housing costs the NHS an estimated £2.5 billion per year. Homes will be increasingly used as places of work and care. Appropriately designed housing, that can adapt to people's changing needs as they age, has a number of benefits. These benefits include reducing demand on health and care services, and enabling individuals to work more flexibly in later life.'*¹²⁰

Notes

119 *Subnational Population Projections for England: 2016-Based*. Statistical Bulletin. Office for National Statistics, May 2018. <https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationprojections/bulletins/subnationalpopulationprojectionsforengland/2016based>

120 *Future of an Ageing Population*. Foresight. Government Office for Science, Jul. 2016. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/535187/gs-16-10-future-of-an-ageing-population.pdf

Climate change

Both the mechanisms of climate change and the impacts that will result are now well understood. A transformation of our energy and transport systems will be required, as well as change in how we organise urban areas to secure their resilience to the inevitable increase in severe weather. Sea level rise of at least a metre is now unavoidable by 2080, and seas will go on rising significantly beyond that date, depending on our ability to secure climate stabilisation at or below 1.5°C global temperature change.

The latest IPCC (Intergovernmental Panel on Climate Change) report¹²¹ provides compelling evidence of the scale of the challenge, and makes clear that we

have only 12 years left to effect radical reductions in greenhouse gas omissions (see Fig. 10). **This requires not just energy transformation, but consideration of the most extensive coastal defence programme ever conceived in the UK, along with the relocation of population over the long term.**

Such impacts will play out locally but will have to reflect the geographies of river catchments and the extensive vulnerable coastal areas such as that between the Humber and the Thames. All of this requires an extensive and integrated planning process capable of managing long-term change, and implies a transformation in the design and location of housing growth.

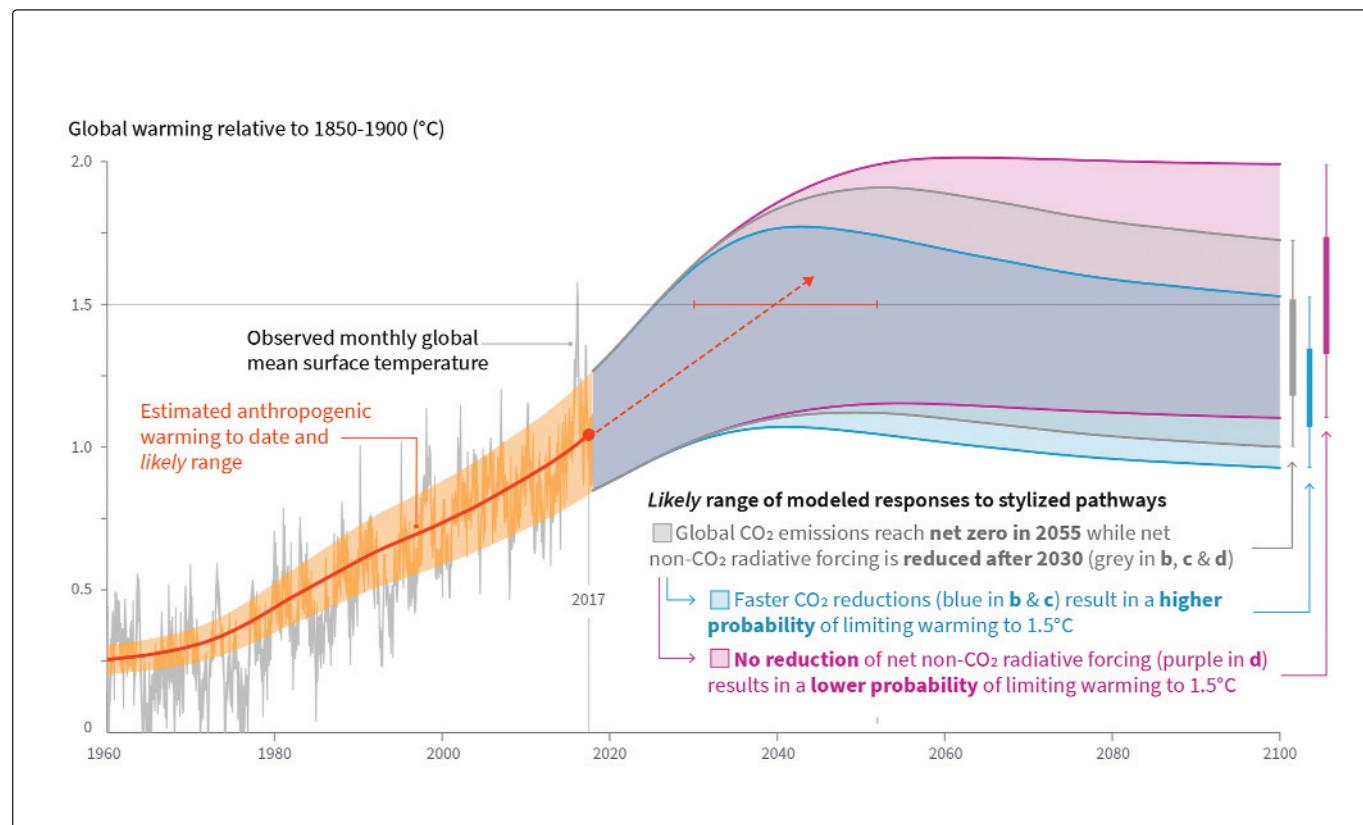


Fig. 10 Observed global temperature change and modelled responses to stylised anthropogenic emission and forcing pathways
Source: Fig. SPM.1 from Global Warming of 1.5°C: Summary for Policymakers. Intergovernmental Panel on Climate Change, Oct. 2018

Note

121 V Masson-Delmotte et al.: *Global Warming of 1.5°C. An IPCC Special Report on the Impacts of Global Warming of 1.5°C above Pre-industrial Levels and Related Global Greenhouse Emission Pathways, in the Context of Strengthening the Global Response to the Threat of Climate Change, Sustainable Development, and Efforts to Eradicate Poverty. Summary for Policymakers*. Intergovernmental Panel on Climate Change, Oct. 2018. http://report.ipcc.ch/sr15/pdf/sr15_spm_final.pdf

Technological transformation

It's all very well to talk about the opportunities of the fourth industrial revolution, but we still trying to clear up after the first one.

Senior public sector planner from the North East

Economic transformation has been a dominant feature of our ex-industrial towns over the last 40 years, leaving many of them with a feeling of being 'left behind'. The scale of industrial change shows no sign of diminishing and offers new challenges for the nature of work. The same applies to how we think about retailing and the whole future of town centres and civic space.

One way of expressing this challenge is that the industrial restructuring of England left communities in particular regions without an economic purpose. The current changes to retailing and financial services will leave town and city centres *everywhere* struggling to reinvent themselves.

This very brief description of just three of the challenges confronting planning illustrates the need for a system which can:

- understand and plan for human behaviour;
- be capable of thinking in the long term – and for some issues that means 50-100 years;
- be able to plan for the reality of our environmental geography; and
- be capable of responding to rapidly changing patterns of economic activity and human behaviour.

Evidence theme 12: The economic costs and benefits of planning

There has been an ongoing argument about whether planning is, put crudely, an economic enabler or simply an economic cost. Government has consistently cited economists who point to the costs of the system, but these factors are rarely if ever balanced by data showing the demonstrable benefits that the system can provide in terms of public goods.

Kate Barker's 2006 analysis¹²² concluded that the planning system has the ability to overcome market failure and influence productivity growth, with both positive and negative contributions towards investment, competition, enterprise, innovation and skills. Planning can help generate valuable public goods, which encourages regional investment. A 2014 RTPI research report by Adams and Watkins¹²³ identified four key areas where planning adds value: the ability to shape, stimulate, regulate and build the capacity of markets. They argued that, if used wisely, plans, policy interventions, reforms to property rights, and Urban Development Corporations are all able to proactively shape markets and add value.

Recent research for the RTPI¹²⁴ appears to confirm the general conclusion that certainty at the early stages of the planning process would have the maximum market benefit. This conclusion is significant when considering the wider benefits of an enhanced status for the Local Plan.

Evidence which suggests that areas with average levels of planning restrictions (measured by a local planning authority's refusal rate on 'major' residential projects) may see house prices that are 30% higher than regions

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122 *The Barker Review of Land Use Planning: Final Report – Recommendations*. HMSO, Dec. 2006.
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/228605/0118404857.pdf

123 D Adams and C Watkins: *The Value of Planning*. RTPI Research Report 5. Royal Town Planning Institute, Jun. 2014.
https://www.rtpi.org.uk/media/1024627/rtpi_research_report_value_of_planning_full_report_june_2014.pdf

124 C De Magalhães, S Freire-Trigo, N Gallent, K Scanlon and C Whitehead: *Planning Risk and Development: How Greater Planning Certainty Would Affect Residential Development*. RTPI Research Paper. Bartlett School of Planning and London School of Economics, for the RTPI, Apr. 2018. <https://www.rtpi.org.uk/media/2792494/Planning-risk-and-development.pdf>

with the lowest levels has been identified in work by Cheshire *et al.*¹²⁵ and Hilber and Vermeulen.¹²⁶ Academics at the LSE contributed a number of papers researching the links between land use planning and economic performance, with a focus on costs. In summary, this body of work suggests limited evidence of the direct costs of the planning system, such as those relating to transactions or administration. However, Cheshire *et al.*¹²⁷ comment that this does not balance the cost of the regulatory side of planning, with the benefits the system can bring in terms of more strategic means of value creation.

Ball *et al.*¹²⁸ have argued that if the development control process is seen from a site level perspective rather than individual planning applications, the process is a barrier to timely development. Using data collected from 180 sites in South East England, they noted that the time taken for sites to move from a first planning application to final approval was 62 weeks, and that the median total time for which planning permission was pending was 44 weeks. This is far from the government's target for planning applications to be assessed in 13 weeks, with delays likely to result in financial costs to developers and a loss of community utilities – and also likely to hold back the potential of the economy. However, research undertaken by Marshall and Cowell¹²⁹ concluded that the time the planning system takes to make decisions over infrastructure projects does not significantly 'delay' the delivery of schemes. Based on

empirical evidence from 117 major infrastructure projects in the UK (undertaken between 1980 and 2015), identified policies which reduced the time a project spent in the regulatory phases (such as reforms introduced by the Planning Act 2008) tended not to speed up the whole development process, with 'time durations' being redistributed to before planning applications were submitted.

There is an increasing literature evaluating the government's policies on the relaxation of permitted development rights which highlights the complex economic costs of a 'non-planning' approach to new development. These costs include the loss of 1,000 new affordable homes or equivalent Section 106 developer contributions from schemes granted prior approval by London boroughs in 2015, as estimated by London Councils.¹³⁰ The increasing conversion of offices into housing has caused a decline in the English office stock – a loss of 5.3 million square feet in 2014 and a loss of 9 million square feet in 2015.¹³¹ This is threatening the viability of local office markets and economic centres and endangering small and medium-sized enterprises (SME) and the voluntary sector who depend on low-rent office spaces – causing an overall displacement of jobs. The negative consequences of removing the influence of the planning system highlights the positive protective role it plays in maintaining local economies, necessary uses and long-term public interests.

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- 125 P Cheshire, C Hilber and I Kaplanis: *Land Use Regulation and Productivity – Land Matters: Evidence from a UK Supermarket Chain*. SERC Discussion Paper 138. Spatial Economics Research Centre, London School of Economics, Aug. 2013.
<http://www.spatialeconomics.ac.uk/textonly/SERC/publications/download/sercdp0138.pdf>
- 126 C Hilber and W Vermeulen: 'The impact of supply constraints on house prices in England'. *Economic Journal*, 2016, Vol. 126 (591), 358-405
- 127 P Cheshire, C Hilber and I Kaplanis: *Land Use Regulation and Productivity – Land Matters: Evidence from a UK Supermarket Chain*. SERC Discussion Paper 138. Spatial Economics Research Centre, London School of Economics, Aug. 2013.
<http://www.spatialeconomics.ac.uk/textonly/SERC/publications/download/sercdp0138.pdf>
- 128 M Ball, P Allmendinger and C Hughes: 'Housing supply and planning delay in the South of England'. *Journal of European Real Estate Research*, 2009, Vol. 2 (2), 151-69
- 129 T Marshall and R Cowell: 'Infrastructure, planning and the command of time'. *Environment & Planning C: Government & Policy*, 2016, Vol. 34 (8), 1843-66
- 130 *The Impact of Permitted Development Rights for Office to Residential Conversions*. London Councils, Aug. 2015.
<https://www.londoncouncils.gov.uk/our-key-themes/housing-and-planning/permitted-development-rights/impact-permitted-development-rights>
- 131 *Permitted Development Rights: One Year on from Permanence*. British Council for Offices, Sept. 2017.
http://www.bco.org.uk/Research/Publications/Permitted_Development_Rights.aspx

Overall, the literature emphasises that a well functioning and proactive planning system can produce considerable direct and indirect economic benefits in the short and long term. Although hard to quantify accurately, elements of the planning system do come at a direct expense to local authorities and applicants, and there are potentially significant indirect costs for house prices, office investment, and retailing. Most authors agree that some economic cost is inevitable if the planning system is to deliver long-term public interest outcomes. **What is abundantly clear is that the assumption that planning regulation is simply an economic cost, which has been the dominant driver for planning reform, is false and not supported by the evidence.**

What are the alternatives to planning?

The English planning system has come under sustained criticism on all aspects of its purpose and detailed operation in recent years. While there have been almost no suggestions for a comprehensive replacement for the system, there are three sets of related ideas which have been put forward as the basis for a new system: land licensing, return to by-law regulation, and economic valuation and appraisal techniques.

Land licensing

This idea is not articulated as a comprehensive replacement for the existing system, but it is represented by the government's deregulation of permitted development. It would reduce the system to a 'light-touch' form of regulation which controls only a set of minimal standards. The utility of the system is discussed in more detail in Section 6. Along with the NPPF's discretionary approach to the need for a detailed Local Plan, it represents the clearest alternative to the existing system.

Return to by-law regulation

Organisations such as Create Streets¹³² are promoting an active debate about the removal of national

development rights, on the basis that the 1947 planning system was fundamentally flawed. They advocate instead a system of control which has as its root the by-law regulation of the built environment that dominated prior to 1909.

The idea of tight regulation of building types and standards as a way of improving the urban environment reflects a disenchantment with the current outcomes of planning and could relate to a more European-style approach to detailed building codes. We recognise that the beauty of Bloomsbury Square, for example, was created through a combination of basic standards set by the London Building Acts and the vigorous application of leasehold agreements by landlords. The uncomfortable lesson appears to be that, whether by private or public means, high-quality environments depend on detailed design 'rules' which are rigorously enforced.

The Review team considered these ideas in detail and recognised the potential utility of more prescriptive building codes. However, there are extensive questions about how such a system would work for the nation as a whole. How would it deal with the scale of the challenges set out in this Section or with the necessary long-term planning for transport, equality, minerals and energy? How would such a system operate for the regional and national geography that we have to plan for? How would it deal with architectural innovation and, most importantly, the complex job of place-making in the round? It would appear that prescriptive standards in the built environment have a powerful role to play, not least in securing people's safety, but it is hard to see that such an approach offers a complete solution to the management of complex change.

Economic valuation and appraisal techniques

There have been long-standing attempts to embed economic valuation and appraisal techniques as the key way of determining planning decisions. Of all the alternative ideas the Review examined, it is economic valuation that appears to be the most exciting to

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132 See the Create Streets website, at <http://dev.createstreets.com/>

government. There is active debate about net environmental gain and natural capital which could be used to shape decisions on development, where impacts might be traded off for overall environmental gains. All these ideas require the process of planning to conform to orthodox welfare economic accounting models, which in essence all present themselves as versions of cost/benefit analysis. At a national level HM Treasury applies its 2013 Green Book¹³³ valuation and appraisal guidance to a range of policy decisions, including decisions on national infrastructure investment. The Green Book makes clear (in paragraph 2.12) the basis upon which appraisal should be conducted:

'The costs or benefits of options should be valued and monetised where possible in order to provide a common metric. This is usually done by assessing the value which reflects the best alternative use a good or service could be put to – its opportunity cost. Market prices are the usual starting point for the valuation of costs and benefits.'

The Green Book recognises the challenge of monetising some kinds of cost or benefits, but does not resolve how these factors should be weighted. Such limitations have led to important strands of work on 'social value' and 'natural capital' which have sought to monetise the costs and benefits which often play out in complex ways and over long time periods. The detailed work by the Natural Capital Committee raises the prospect of a more sophisticated valuation of ecosystem services. This in turn has ignited a debate on how far such values could create a decision-making tool capable of replacing traditional planning decisions. This debate remains largely inside government but is attractive to HM Treasury because it opens the prospect of overcoming environmental constraints by schemes of compensation and mitigation, so long as the overall benefit is a 'net gain'. The Review team acknowledge the complexity of this debate and the real value of understanding the economic benefits of ecosystem services. However, there are a set of difficult questions which both the

application of cost/benefit analysis and the implication of net gain in trading off impacts have to confront:

- Are economic valuation and appraisal techniques advisory or determinative? While the information of economic appraisal may be very valuable as a contribution to making decisions, that is very different from making them a determinative factor.
- Are we yet capable of assigning values to social and environmental factors which are credible? This remains problematic, with complex suggestions for how it might be achieved, but with outliers such as landscape whose value to different people is deeply contested.
- Can economic valuation systems deal with the highly complex patterns of human needs, desires and attachments that surround planning decisions? These range from the intrinsic value of the environment to the need for community participation and democratic control. This is a real problem for any system which implies the valuation and trading off of local environmental impacts. People's local environment may be particularly valuable to them, and damage created to it may in no way be compensated for by the creation of better habitat two miles away, even though such a scheme might result in significant 'net gain' to the environment.

Valuation and appraisal mechanisms are evolving to try to deal with this complexity. For example, there are various tools to help secure environmental net gains – most obviously the Natural Capital Planning Tool,¹³⁴ an NERC (Natural Environment Research Council) project that provides a ready-made mechanism to inform discussion about the kind of places we want, and allows the user to understand the potential of natural capital and then optimise key net gains in line with policy priorities. While such tools may contribute to more informed decision-making, it is hard to conclude that they could ever be a credible alternative to democratic planning. This is, perhaps, inevitable, since all planning decisions contain arguments about values which are, and will remain, a matter of political judgement.

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133 *The Green Book. Central Government Guidance on Appraisal and Evaluation.* HM Treasury, 2018.
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/685903/The_Green_Book.pdf

134 See the Natural Capital Planning Tool website, at <http://ncptool.com/>

Conclusions

The evidence received by the Review is extensive and complex, but it confirms the need to ask fundamental questions about the objectives, accountability and outcomes of the planning system. Less reassuring is the complexity and controversy which surround many of these issues. In some cases, they have remained unresolved for decades, precisely because acceptable political solutions have been so hard to find. Neither does the evidence suggest that there is very much consensus about what to do now. The lack of clear agreement about the need for a democratic system and the conflation of the public interest with private interests suggest that the system is confronting a major crisis of purpose.

Taken together, the evidence presents a picture of a planning system that has a conflicted purpose, is based on complex and illogical structures, and is remote from the people whose lives it is intended to improve. Yes, there are positive examples of planning practice to be celebrated, but taken as whole it is not a system that is fit for purpose. Above all, it is not focusing its powerful potential to enhance the health, safety and wellbeing of people and communities.

That is why we believe that a radical approach is needed to rethink the system, and the following Section sets out propositions that could form the basis of a new and positive system.



Section 6

Reimagining the planning system

As with all complex systems, identifying problems with English planning is much easier than finding sensible solutions. Confronted with the twin-pronged challenge of the breadth of the issues raised in the evidence and a lack of any clear consensus about what to do about them, the Review team adopted a two-stage approach. The first stage involved setting down a key set of questions which flow from the evidence, and in the second the team distilled a set of propositions to address these questions.

In thinking about a future system, the Review team were aware of the tension between what is logical and what may be politically feasible. This applies to considering mechanisms for capturing betterment value, for creating fair community rights, and for creating a genuinely plan-led system, and to a host of other issues where there are clear technical solutions. The barrier is one of political acceptability and wider public support, which is why this Section begins by asking whether any form of planning system might be justified in a modern society and, if it is, how the foundations of such a system might be reimagined.

In considering the remit for the Review set out in its terms of reference (see Annex 1) and the evidence we received, there appear to be ten core questions that define the direction of a reimagined planning system:

- What is the justification for a spatial planning system in a market economy?
- What should the purpose of a planning system be, and how should this be expressed?
- What should the scope and powers of the planning system be?
- What role, and how much power, should there be for the citizen in decision-making?

- What are the basic outcomes that people can expect from the planning process?
- How can we plan for the functional geography of England?
- What institutional arrangements and structures are required to support spatial planning?
- Can we simplify the legal basis for planning?
- What taxation or charging measures are necessary to deal with the economic impact of land use regulation?
- What sorts of skills, practice and culture do planners need to support a positive and inclusive planning system?

This Section seeks to answer each of these questions in the form of a set of foundational propositions for a renewed planning system.

Question 1: What is the justification for a spatial planning system in a market economy?

Commentary

The evidence presented to the Review gave a strong indication of conflict over the justification and purpose of planning, with, put crudely, two divergent views – the first that planning's purpose is to facilitate the private market through a residual form of land licensing to support 'growth'; the second that planning was designed to regulate the market to achieve long-term public interest objectives in relation to sustainable development. Unlike some other European nations, the justification for a spatial planning system in England is not framed in constitutional law or other legislation and



can be – and has been – re-purposed merely by making changes to national policy.

The absence of a clearly expressed rationale for planning underpins a fluid and often conflicted approach in government over the value of planning as an instrument of public policy. In recent years this conflict has been reflected in the tension between the ‘growth’ and ‘sustainable development’ paradigms. The choice between these two paradigms is key because it leads to very different planning approaches and accountability, and starkly different outcomes for people.

Based on the evidence received, the Review broadly endorses the second view of the role of planning, based on the following assumptions:

- A free market in land and development leads to a range of complex sub-optimal outcomes which have serious impacts on wider society. These include long-term costs to the economy, as well as direct impacts on individuals. The state has, therefore, a legitimate role to play in the regulation of land and the built environment to secure important public interest outcomes.¹³⁵
- There are real challenges confronting society which require practical solutions across differing spatial scales, with sufficient powers to be effective. These challenges change over time but are dominated by demographic change, climate change, and technological change. There is no evidence that the market alone can deal with these challenges in a way that balances the interests of the environment and economy while securing people’s safety, health and wellbeing.
- The system must work within the context of a mixed economy in which the private sector plays a key role in development in all sectors.
- People have a right to a voice in the decisions that affect them – which goes beyond the expression of property rights. This is a primary distinction between

democratic planning and a system of residual land licensing. As a result, the planning system must work within the grain of our existing democracy and civil rights.

Proposition 1: Planning in the public interest

There is both an evidential and a principled justification for the regulation of land and the built environment. This justification is founded on two main assumptions. The first is the assumption that market mechanisms alone are unable to deliver a full range of public interest outcomes when confronted with the scale of the real-world challenges facing the nation. The second is the principled assumption that decisions with a lasting impact on people and places should be subject to democratic accountability that goes beyond the exercise of individual property rights.

Question 2: What should the purpose of a planning system be, and how should this be expressed?

Commentary

Accepting that there is justification for the regulation of land and the built environment, the question remains as to the values that should guide practical action and how they are to be expressed in law and policy. There was broad agreement at Task Force meetings that the purpose of planning should be the delivery of sustainable development. Indeed, it was hard to identify an alternative idea that might underpin the future development of the nation. This echoes the conclusions drawn from the 2002 Royal Commission on Environmental Pollution report on the future of planning.¹³⁶

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135 This is the view supported by both the Royal Commission on Environmental Pollution in its 2002 report *Environmental Planning* and by Kate Barker’s 2006 Review of Land Use Planning

136 *Environmental Planning*. Twenty-third Report. Royal Commission on Environmental Pollution, Mar. 2002. <http://webarchive.nationalarchives.gov.uk/20070202120000/> <http://www.rcep.org.uk/e-report.htm>

Providing a robust operational definition of sustainable development is both vital and achievable. There is extensive discussion of this in the planning literature, including a focus on, for example, ideas around 'just sustainability'.¹³⁷ There are also significant expressions of the concept through international agreements, most notably the United Nations' Sustainable Development Goals.¹³⁸ There are also specific legal expressions of key sustainable development elements, such as the needs of future generations, in UK and international law – for example, the Well-being of Future Generations (Wales) Act 2015 and New Zealand's resource management legislation.

In reconstructing the narrative around sustainable development, it is logical to begin in the context of international agreements set out in the UN Sustainable Development Goals (SDGs). The government has been helpful in this process by making clear in the 25 Year Environment Plan¹³⁹ that there is a cross-departmental commitment to ensuring implementation of the SDGs, with oversight given to the House of Commons Environmental Audit Committee. This, then, is the high-level policy context, with a set of useful benchmark targets on a range of issues directly relevant to planning.¹⁴⁰ The UN SDGs provide a powerful basis for the English planning system. Similarly, the UN's New Urban Agenda¹⁴¹ makes clear that the reform of planning is an important tool for integration and inclusion.

The 2005 UK Sustainable Development Strategy remains government policy and provides five overarching principles which have direct relevance for planning practice. In describing the principles, listed

below, the strategy makes clear that the first two are the core objectives, while the latter three support the delivery of these goals:

- **Living within environmental limits:** *Respecting the limits of the planet's environment, resources and biodiversity – to improve our environment and ensure that the natural resources needed for life are unimpaired and remain so for future generations.*
- **Ensuring a strong, healthy and just society:** *Meeting the diverse needs of all people in existing and future communities, promoting personal wellbeing, social cohesion and inclusion, and creating equal opportunity for all.*
- **Achieving a sustainable economy:** *Building a strong, stable and sustainable economy which provides prosperity and opportunities for all, and in which environmental and social costs fall on those who impose them (polluter pays), and efficient resource use is incentivised.*
- **Promoting good governance:** *Actively promoting effective, participative systems of governance in all levels of society – engaging people's creativity, energy, and diversity.*
- **Using sound science responsibly:** *Ensuring policy is developed and implemented based on strong scientific evidence, whilst taking into account scientific uncertainty (through the precautionary principle) as well as public attitudes and values.¹⁴²*

Given the absence of an overarching legal purpose for the planning system, it would seem logical to make clear how these objectives could be enshrined

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137 See Y Rydin: *The Future of Planning: Beyond Growth Dependence*. Policy Press, 2013

138 See the United Nations' Sustainable Development Goals website, at <https://www.un.org/sustainabledevelopment/sustainable-development-goals/>

139 *A Green Future: Our 25 Year Plan to Improve the Environment*. HM Government, Jan. 2018. <https://www.gov.uk/government/publications/25-year-environment-plan>

140 C Hague: Evidence Submission to the Scottish Parliament Local Government and Communities Committee on the Planning (Scotland) Bill. http://www.parliament.scot/S5_Local_Gov/Inquiries/20180202_PB_ProfCHague.pdf

141 *New Urban Agenda*. Resolution adopted by the United Nations General Assembly on 23 Dec. 2016. United Nations, Jan. 2017. <http://habitat3.org/wp-content/uploads/New-Urban-Agenda-GA-Adopted-68th-Plenary-N1646655-E.pdf>

142 *Securing the Future: Delivering the UK Sustainable Development Strategy*. UK Government Sustainable Development Strategy. Cm 6467. HM Government. TSO, 2005. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/69412/pb10589-securing-the-future-050307.pdf

in an overarching statutory purpose for planning. The current fragmented legal duties do not constitute a clear purpose for the planning system. The duty on sustainable development introduced in the 2004 Planning and Compulsory Purchase Act is largely meaningless because it is framed in weak language and because there is no operational definition of the sustainable development concept in the Act. Given that many other statutory bodies and frameworks have a clear statutory purpose, it is odd that planning does not.

Proposition 2: **Planning with a purpose**

The lack of any clear, overarching legal purpose for the planning system has led to confusion about what planning is for. The best way of solving this problem is to create a meaningful objective focused on the delivery of sustainable development. The objectives articulated in the UN SDGs provide the overarching narrative for the planning system. The specific purpose of planning in England is to improve the health and wellbeing of people by creating places of beauty, convenience and opportunity by applying the principles of sustainable development. This objective should be set out in a statutory purpose for the system and in supporting policy. The statutory propose of planning should be as follows:

The purpose of planning

The purpose of the planning system is to positively promote the long-term sustainable development of the nation and the health, safety and wellbeing of individuals. In the Planning Acts, 'sustainable development' means:

- *managing the use, development and protection of land, the built environment and natural resources in a way which enables people and communities to provide for their social, economic and cultural wellbeing while sustaining the potential of future generations to meet their own needs; and*
- *promoting social justice and reducing inequality.*

Question 3: **What should the scope and powers of the planning system be?**

Commentary

If we want planning to be effective in securing positive outcomes for people and to command the confidence of all sectors it must be powerful and comprehensive. The evidence is clear that planning has, in practice, lost many of the necessary powers, and the results can be seen in the kinds of housing units produced through permitted development. In considering the kinds of powers which an effective system would need, there are two issues to address:

■ *The delivery of a genuinely plan-led system:*

The plan should be the expression of community aspirations and the instrument for the co-ordination of growth, by creating certainty about how and where development will take place. Settling the legal status of the plan is a vital pre-condition to effective planning that can command public confidence. However, other changes are also necessary, not least ensuring that local authorities have the skills and capacity to positively implement the plan.

■ *The restoration of development management powers that have been lost as a result of the extension of permitted development rights.*

The scope of planning

There is clear evidence that decisions about the built environment and the use of land impact upon people in multiple and complex ways. A system of regulation focused on seeking long-term benefits for people needs sufficient scope to plan for this complexity. Planning is concerned with the broad interrelationship between people and their environments. Its remit goes beyond land use planning to encompass a broad concern with how the management of land and buildings impacts, for example, upon people's health and wellbeing.

Planning for the right timescales

Most planning in England is conducted on a maximum 15-year time horizon. This simply makes planning for

demographic change, infrastructure need and provision, and flood risk much less effective. Spatial planning must be capable of long-term thought processes.

Proposition 3: **A powerful plan-led and people-centred planning system**

Planning requires sufficient regulatory powers to deal with problems where they are found. This means, for example, the control of changes to both urban and rural areas which may play a crucial role in creating cohesive communities and building resilience to climate change. To be effective, these powers must be comprehensive and should relate, with minor exceptions, to the use and development of all land and property. This requires, for the first time, the achievement of a genuinely plan-led system which can deliver co-ordination and certainty to developers and communities.¹⁴³ It also requires the restoration of development management powers over the conversion of buildings to homes under permitted development.

The planning system must be capable of dealing with the complex interrelationship between people and their environments. The scope of planning is therefore concerned not simply with land use, but with broader social, economic and environmental implications for people and places for both current and future generations.

Question 4: **What role, and how much power, should there be for the citizen in decision-making?**

Commentary

A great deal of evidence has been submitted to the Review on the wider disconnect between people and the planning process – a complex issue which has not been comprehensively reviewed for 50 years.¹⁴⁴ The current debate focuses on the opportunities offered by neighbourhood planning, and there is no doubt that this new tier of planning has created renewed community engagement with the planning process in many areas. There is extensive evidence of good practice, but equally there are strong concerns about the limitations of Neighbourhood Plans in influencing local decisions, and about the lack of take-up by socially excluded groups.

However, the process of neighbourhood planning does not, alone, resolve the wider issue of individuals' relationship with local or strategic planning or with the process of seeking planning permission. Indeed, Review Provocation Paper 2¹⁴⁵ noted the lack of any policy statement setting out the government's policy on people and planning. The Review team were struck by the focus in the government's recent Civil Society Strategy¹⁴⁶ on the importance of citizens being able to influence local decisions, even if this strategy stops short of an expansion of community rights.

The Review team noted the starkly unequal civil rights in the planning process, coupled with a striking imbalance in access to planning expertise, particularly in excluded communities. This problem is compounded

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143 The debate on planning reform in Scotland is interesting in this regard. The Scottish Government proposed extending the use of Simplified Planning Zones. Consultation responses suggested it should instead consider 'Better Planning Zones' and combine land assembly with detailed masterplanning and 'permission in principle'. Provided the process was inclusive and democratically accountable, this could, it was suggested, promote better outcomes

144 *People and Planning: Report of the Committee on Public Participation in Planning*. Skeffington Report. HMSO, 1969

145 *People and Planning*. Provocation Paper 2. Raynsford Review. TCPA, Jun. 2017.

<https://www.tcpa.org.uk/Handlers/Download.ashx?IDMF=8a028329-fb39-431e-a994-2b0a25eeb62b>

146 *Civil Society Strategy: Building a Future that Works for Everyone*. Cabinet Office. HM Government, Aug. 2018.
<https://www.gov.uk/government/publications/civil-society-strategy-building-a-future-that-works-for-everyone>

by a lack of support services for communities on planning applications and Local Plans. **Crucially, a lack of resources and legal powers means that local councils are no longer perceived to protect the public interest. Put simply, there is no real trust that the planning process will reflect the concerns of communities.**

Fixing this problem is yet another of the issues with much wider and constitutional implications that the Review has had to address. In outline, there are four dimensions to reconnecting people and planning:

- **Clarity over the role of different democratic models:** This issue is typified by the relationship between direct democracy through referendums on Neighbourhood Plans and the representative role of councillors on planning committees. Above all, this requires the development of a genuine participative democratic model, giving communities ongoing responsibilities and powers over local decision-making. The question remains as to which system of democracy is most appropriate for strategic and national planning.
- **Clear civil rights:** The most obvious framework of civil rights in decision-making is set out in the Aarhus Convention, which requires rights of access to information, participation and challenge. Some aspects of the convention are already implemented in planning; others need to be clarified, such as qualified third-party rights of appeal. As a starting point, the convention offers a simple set of rights which can be applied throughout the planning framework.
- **Community support and empowerment:** If genuine community participation that supports social equity is to be secured, resources for educating the public will need to be transformed. Awareness of planning and the opportunities it creates is at a low ebb and no longer part of mainstream education. A priority target for resources should be those excluded communities who have traditionally not participated in planning. New technology should play a leading role in creating greater accessibility and transparency for communities in planning decision-making.
- **Planning culture:** Bridging the gap between planning and people requires changes to the culture

and management of the planning service. For example, targets relating to performance must not focus solely on processing times but should also reflect the need for building community participation and quality outcomes to secure people's wellbeing. Similarly, planning education must ensure that planners are skilled at communicating, listening and mediating in planning decisions and can set out possibilities for how communities can develop.

Proposition 4: A new covenant for community participation

To be effective, planning must have public legitimacy. This legitimacy is under intense strain, with a broad disconnect between people and the wider planning system. Restoring legitimacy is a long-term project, requiring clarity on how far the citizen can positively participate in decisions. This, in turn, is based on action in four areas:

- democratic accountability, including clarity about the role of representative and direct democracy in national and regional planning and greater encouragement for participative democracy in the process of planning decision-making;
- clear citizen rights, based on the provisions of the Aarhus Convention, so that people have a right to information, a right to participation, and a right to challenge – this will include exploring how civil rights in planning can be more evenly distributed;
- a significant new approach to helping communities to engage in the planning process, with a focus on engaging groups who do not currently have a voice, such as children and young people; and
- a new professional culture and skills set directed at engaging communities.

Question 5:

What are the basic outcomes that people can expect from the planning process?

Commentary

Increasing people's participation in decisions which shape their lives is a fundamental aspect of securing our democracy. However, real concern was expressed in the Review evidence that new rights to participation might be exploited by those with an interest to protect, to help them override the legitimate and basic requirements of those in greatest need of a decent home. The task of securing high-quality and genuinely affordable homes in an environment which supports safety and wellbeing requires greater use of minimum standards. Some of these should be located in building regulations, but there remain some issues currently dealt with in permissive national standards which need to be reflected in a mandatory code. These design issues, on space, resilience and accessibility, are vital to people's life chances and should be non-negotiable matters in the development process. As a result, Proposition 5 seeks to secure decent minimum standards for all sections of our society.

Proposition 5:

A new commitment to meeting people's basic needs

While measures to increase public participation would improve the process of planning, they need to be accompanied by rights to basic outcomes which reflect the minimum standards that people can expect from planning. These outcome rights are an important balancing measure to ensure that the needs of those who may not have a voice in the planning process, including future generations, are reflected in the outcomes of decisions. These rights include:

- a duty on local authorities to provide genuinely affordable homes;
- a right to basic living conditions to support people's health and wellbeing, secured through minimum national design standards which meet people's needs throughout their lifetime; and

- a legal obligation to plan for the needs of future generations, by, for example, the consideration of resource use.

Question 6:

How can we plan for the functional geography of England?

Commentary

Planning must be able to deal effectively with challenges to society presented by evidence on issues such as demographic change and climate change and the need for, and the opportunities presented by, new infrastructure. The impact and benefits of these factors play out at a range of different geographic scales, reflecting the real world of, for example, river catchments or travel-to-work areas. Our current system has a poor relationship with this functional reality. Planning must be able to deliver solutions that reflect the strategic challenges we face. It has also to be flexible enough to reflect the diversity of people and places in England.

One of the primary ambitions of the Review was to consider the creation of a logical narrative of planning structures in England. The core of the system would be an integrated framework – from neighbourhood to national planning – of mutually supporting plans and strategies, defined by four key layers:

- neighbourhood;
- local authority;
- strategic regional/city region; and
- national.

Operational planning would remain substantially local, with most applications being decided in the context of a powerful local development plan. Regional plans are the most problematic layer given the current chaotic patchwork of plans with differing status, scope and governance. **The Review team are quite clear that the best approach would be the restoration of comprehensive regional planning that mirrors the powers and governance which currently benefit London.** Given that this is a long-term objective, it is important to work with the emerging strategic planning

framework to ensure that such plans have strong governance arrangements and a clear and consistent scope. These plans should be essentially be advisory but should provide a powerful basis for co-ordinating local planning policy.

One further key component of the structure of planning would be the limited use, where necessary, of focused, special delivery bodies such as Development Corporations. The remit of such bodies would require reform to allow them to be used, not just for the creation of new communities and regeneration, but also to address the sub-regional impacts of flooding or coastal change. **The governance of such bodies would have to be in line with the principles of community participation set out above.**

There are further questions on the relationship, governance and respective powers of these tiers of planning, which are dealt with in the recommendations set out Section 7. In principle, national planning would be enabling, offering a spatial picture of national development priorities to provide certainty to regional and local planning. It would be a source of agreed data sets and a place where any potential need for special delivery vehicles might be identified.¹⁴⁷ Local Plans would benefit enormously from working within a context of agreed investment priorities and data sets, and from the support of Development Corporations in dealing with major planning challenges beyond the capacity of, for example, a single local authority.

Proposition 6: Planning from local to national

The structure of English planning should be composed of four spatial scales (neighbourhood, local, regional, and national planning), supported by the use, where appropriate, of modernised Development Corporations to deal with particularly demanding issues such as flood risk, economic renewal, and population change. While most decisions should remain with local planning

authorities, regional and sub-regional planning should play a supportive role in clarifying strategic objectives and in providing long-term certainty for all sectors. A national plan would, for the first time, force central government to be clear about its investment priorities, how they interrelate, and what they mean for the diverse regions and places of England.

Question 7: What institutional arrangements and structures are required to support spatial planning?

Commentary

Proposing a planning system with four tiers begs a crucial question about the institutional setting and support for each of these layers. As already noted, it is extremely challenging to sort this problem out without comprehensive local government reorganisation, which is unlikely to happen in the near future. However, there are a further set of important institutional players with a major role in shaping decisions at the national and regional and sub-regional scales. These include at least eight government departments and related agencies. Many of these agencies have a statutory basis, such as the Environment Agency or Homes England.

Other bodies play a pivotal role in strategic planning, such as Local Enterprise Partnerships, and regional transport bodies. **However, there is no guiding institutional thread to co-ordinate the actions of these organisations.** Neither do many of them, including the National Infrastructure Commission, have any formal relationship with the statutory planning system. Despite the quality of the National Infrastructure Commission's National Infrastructure Assessment, this document has no formal relationship with the NPPF. Concerns were also raised with the Review team about how much public awareness or endorsement there is of the work of the National Infrastructure Commission. The wider dysfunction in how we manage England's

Note

147 The agreement of local authorities would be also be needed before designation

national and strategic planning efforts has been part of the key motivation for the Common Futures Network (CFN) proposals on national planning.¹⁴⁸ This has resulted in the launch by the CFN of the UK2070 Commission, with a focus on understanding how we might deal with stark regional inequalities across the UK.¹⁴⁹

More positively, this collection of public bodies contains many of the right elements for effective national planning – from those equipped to think and plan, such as the National Infrastructure Commission, to those with extensive delivery powers, such as Homes England. Again, there is an opportunity to align and re-purpose these bodies to deliver the goal of a more coherent and effective planning framework.

The institutional foundations for local planning remain largely intact, and there are some obvious pathways to supporting national planning. However, at the regional and sub-regional scales the picture is much more complex. A variety of organisations are now beginning to plan at the sub-regional scale, including combined authorities, county councils, joint planning committees, and other less formal groupings of local authorities. London, of course, has its own regional planning institutions.

In the short term there is a powerful case for trying to bring some logic and transparency to the current situation by suggesting that, while a variety of bodies may carry out regional and sub-regional planning functions, they should do this on a statutory footing, with a clear and common remit for the plans that they produce, a clear relationship with other plans, and common and transparent governance arrangements.

It is also worth noting that neighbourhood planning has a confused institutional framework, split between elected local authorities and unelected neighbourhood forums.

Proposition 7: Alignment between the agencies of English planning

Investment in infrastructure needs to be co-ordinated with plans for growth as a shared ambition across the planning and development sector, reflected in the logical arrangement of planning institutions. The question is how to achieve such logical joint working. There is a significant opportunity to ensure better co-ordination between the existing public institutions that have a stake in the planning process – including the eight government departments with a stake in planning and their various agencies, such as the National Infrastructure Commission, the Infrastructure and Projects Authority, and Homes England. Closer alignment of these bodies and clarity over their specific responsibilities could have a transformational impact on the delivery of new and renewed communities.

Question 8: Can we simplify the legal basis for planning?

Commentary

Planning powers and structures are framed in planning legislation that is characterised by complexity and fragmentation. There are four aspects to this issue. The first is that the legislation has not been consolidated since 1990, and since then there have been multiple and systemic legislative changes, which means that sections of the Planning Acts are subject to complex and multiple amendment. The supporting secondary legislation is equally complex and has been subject to extensive change. In many cases, new frameworks have been introduced by amending schedules (neighbourhood planning) or through a single enabling clause in primary legislation which then facilitates the creation of new

Notes

148 *Towards a Common Future. A New Agenda for England and the UK*. Interim Prospectus. Common Futures Network, May 2017. <http://commonfuturesnetwork.org>

149 See the website of the UK2070 Commission, an independent inquiry into city and regional inequalities in the UK, at <http://uk2070.org.uk/>

regimes through complex secondary legislation (locally led New Town Development Corporations). There is also a plethora of other legislative provisions which apply to the exercise of planning functions in other legislation.

The second aspect of this complexity is the separation of town planning from the Nationally Significant Infrastructure Projects regime created by the 2008 Planning Act. While opinion differs on the regime's success, the legal relationship between the two systems remains unresolved. The 2008 system enables the preparation of sector-focused National Policy Statements with a powerful legal status, but no clear legal mechanism for their integration into a coherent spatial programme for national development.

The third aspect is the confused relationship between town planning and both building regulations and licensing, where an effective boundary between these related regimes has never been agreed.

The fourth aspect of the complexity is the separation of key planning delivery mechanisms such as New Town Development Corporations and Urban Development Corporations from planning legislation. The relevant powers are contained in separate legislation (the 1981 New Towns Act and the 1980 Local Government, Planning and Land Act, respectively) with distinctively different objectives. These mechanisms were designed to deal with exceptional challenges of large-scale demographic and industrial change, but have not been deployed at any scale to meet the challenges that the nation currently faces.

The integration of some of these regimes into a single legal framework could have major benefit in bringing clarity to the system. In other cases, clarity on the relationship of related regimes could remove significant confusion. A clear view on how standards are reflected in building regulations and/or Local Plan policy would resolve many complex arguments.

Proposition 8: Simplified planning law

There is a powerful case for a simplified, consolidated and integrated Planning Act for England, to create a logical set of powers and structures. Planning must be capable of intervening at the right spatial scales to meet future challenges, including both local and neighbourhood issues, as well as issues at much wider landscape and catchment area scales. To maximise the potential for the co-ordination of investment and other action to deliver effectively, regional and local strategies must be set within a national framework which reflects the nation's development priorities.

Question 9: What taxation or charging measures are necessary to deal with the economic impact of land use regulation?

Commentary

Of all the areas the Review team explored, betterment taxation has proved, understandably, to be one of the most difficult in which to achieve a consensus. It is, however, clear that a substantial public asset is created through planning regulation, and that our failure to recoup development land values leads to significant speculation in land, as well as missed opportunities to provide resources to meet the cost of infrastructure needs.

The Review background paper on betterment taxation¹⁵⁰ explores the issues in much greater detail. The Review has also benefited from the recent publication of the House of Commons Communities and Local Government Committee's report on land value capture,¹⁵¹ which sets out a clear explanation of both the sources and the extent of land value uplift, along with proposals on how to improve the capture of land values.

Notes

150 *Do We Need a Betterment Tax?* Provocation Paper 3. Raynsford Review. TCPA, Oct. 2017. <https://www.tcpa.org.uk/raynsford-review>

151 *Land Value Capture.* HC 766. Tenth Report of Session 2017-19. Housing, Communities and Local Government Committee. House of Commons, Sept. 2018. [https://publications.parliament.uk/pa/cm201719/cmselect/cmcomloc/766/766.pdf/](https://publications.parliament.uk/pa/cm201719/cmselect/cmcomloc/766/766.pdf)

The conclusion of the Review is not to support a single betterment tax or charge (the 1947 model), but instead to suggest four measures that are appropriate to different circumstances. The most direct is the notion of Development Corporations and local planning authorities acquiring land at close to existing-use value to facilitate large-scale development.

The second is linked to the proposed enhanced status of the development plan and how strong plan policy can drive down land prices over time and achieve real public benefits.

The third is the related suggestion of consolidating and bringing transparency to the Section 106 and Community Infrastructure Levy systems. No adequate solution has been found to deal with the regressive nature of a Section 106 system which yields most in high-demand areas.

As a result, the fourth element of our approach seeks to harness the existing betterment taxation measures of stamp duty land tax and capital gains tax, which already accrue to the Treasury, and redistribute some of this income as an investment fund for areas in need of regeneration.

Proposition 9: A fairer way to share land values

The regulation of land generates substantial betterment values, created by the actions of public authorities but largely accruing as windfall gains to landowners. This can distort the planning system by incentivising speculation in land. It also leads to an unfair distribution of values in terms of meeting the costs of infrastructure and social facilities, and reduces the opportunities for the long-term stewardship of community assets.

A new planning system should provide a more effective and fairer way of sharing land values, and the Review has explored four related options:

- measures specific to large-scale growth implemented by Development Corporations and local planning authorities;

- measures to strengthen the development plan to secure strong policy public interest outcomes which will be reflected, in time, in lower prices paid for land;
- a reformed Section 106 and Community Infrastructure Levy process; and
- an element of betterment taxation, as part of stamp duty land tax and capital gains tax, which should be directed towards regeneration in low-demand areas.

Question 10:

What sorts of skills, practice and culture do planners need to support a positive and inclusive planning system?

Commentary

The Review received some poignant evidence about the confusion in some practitioners' minds about their values, role and purpose in the current planning system, a feeling most marked in the public sector. The low morale of this sector was striking, with a widely held view that their role was nothing more than that of target-driven technocrats, '*traffic wardens for land*' who were '*blamed for everything from climate change to pub closures*'. It is interesting that this negative view of planners had led many to retreat behind the statutory system and not to focus on the visionary, cross-disciplinary and strategic skills that define the value of the planning profession. There was also cross-sector concern over a lack of resources, leading to 'impossible workloads'.

While there remain excellent and skilled planners in the public service, it is not clear that the objectives and structures of the statutory planning system – directed, for example, at speed rather than quality – allow them to apply their most valuable and creative skills. A particularly common strand of the evidence related to the way that graduate planners go into practice with high ambitions, only to find their role in public service deeply frustrating and limiting, leading them either to move into private practice or to leave planning altogether. This reflects the tension recorded throughout this Report over whether planning is a form of land licensing, which implies one skills set, or the much

more complex and creative practice of shaping places with people to achieve sustainable development.

There has also been feedback on the need for new skills and practices in terms of new technology and public engagement. While UK planning education has outstanding strengths, there were concerns, expressed by those delivering planning courses, that there was a need for greater emphasis on community development and inclusion.

There was also a wider concern about a shortage of planning graduates, and concerns about how the changing nature of planning education and confusion over the future direction of the profession are affecting the training and development of planners.

Because many of these issues relate to the culture of planning, and therefore the values and attitudes of planners, it is tempting to regard them as both 'soft' and as of secondary importance. **And yet the competing notions of the planner as a technocratic functionary or a creative enabler go to the heart of effective outcomes for people and the degree to which the public feel part of the planning process.**

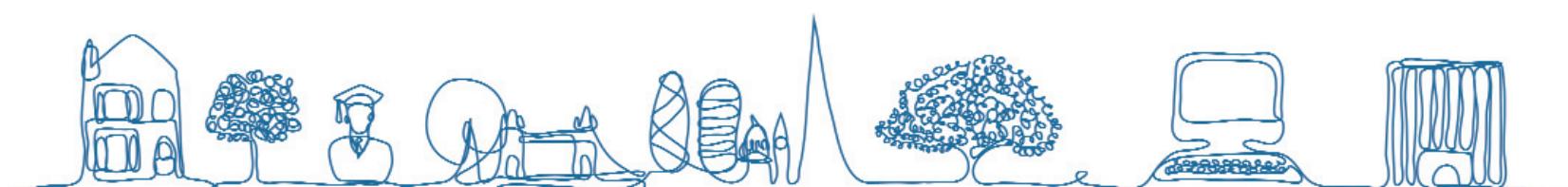
The pressure often experienced by planners in both the public and private sectors to behave in ways not compatible with their professional ethical code is also an important factor, suggesting the need for renewed clarity on ethical and professional boundaries and the values of the planner. In the context of the Grenfell Tower disaster, the Review team were particularly interested in the adoption of aspects of medical ethics into the code of conduct of those professional institutions that work in the built environment sector.

Our particular interest was focused on the principle of 'Do no harm'. We recognise that the notion of harm in medical ethics is capable of a more precise definition

than in the built environment and that this will always be an issue of professional judgement. However, it is not impossible to construct a notion of harm in the built environment where it can be established that the outcome of development is direct and verifiable damage to the health, safety and/or wellbeing of an individual. We also acknowledge that the creation of clear minimum standards of design could largely remove the need for such an ethical standard. The following proposition reflects the priority that these matters deserve in reimagining planning.

Proposition 10: The creative and visionary planner

While a clear purpose and logical structures could do much to improve the planning system, the culture, skills, ethics and morale of planners are just as important. Planning is too often misrepresented as a reactive and negative profession, where the height of a planner's power is saying 'no'. Current planning practice as defined by law and policy too often irons out the imaginative skills most useful to civil society. Planners and planning need to communicate their creative and visionary ambition, not to impose upon communities, but to inspire action by offering real options for the future of places. This requires a range of actions, including reform in the ethics of planners; but above all it requires a system, supported by necessary resources, that values high-quality and inclusive outcomes for people as much as it values speed of performance. Only this level of ambition and social purpose is likely to attract the brightest and best into planning practice.



Section 7

Recommendations

Taken together, the ten propositions set out in Section 6 represent the foundations for the future renewal of an effective planning system in England. It was important not to halt our deliberations at this high level. Instead it was central to fulfilling the remit of the Review to test the practicalities of these ideas. As a result, the aim of this Section is to give the propositions specific effect through a series of detailed recommendations. We have attempted, wherever possible, to be precise about what needs to be done and who needs to do it.

The recommendations are also intended be interlocking and self-supporting. The best example of this interdependence is the enhancement of the status of the development plan, which could simultaneously support broader community legitimacy, better co-ordination of infrastructure, greater business certainty, and, potentially, the more effective capture of betterment values. Achieving this goal requires action across a range of issues, from the legal status of the plan to the practical power of a local authority to deliver it, which itself depends on the capacity, skills and the investment generated by effective betterment taxation. **It would be a profound mistake to think that legal changes alone will solve our problems. What is required is a combination of related actions that drives lasting transformation.** Fig. 11 illustrates how this interlocking cocktail of measures needs to be considered if we are to achieve our objective of delivering healthy, prosperous and beautiful places.

While it is tempting to ‘cherry pick’ those proposals which resonate with particular sectors, the recommendations should be seen as an attempt to find a holistic solution to the systemic problem of how we plan for England.

One of the few areas of complete consensus across sectors was the need to end the piecemeal ‘tinkering’ with the planning system. To achieve this, a new and lasting settlement is needed which confronts the difficult tensions that are so clearly a part of current planning practice. A balance between people’s voice and efficiency for business will always be difficult to achieve, but the task is not helped by poor organisation and confused governance. **For those who are understandably tired of changes to the system, the key message of the Review is that change is inevitable because the current system is unstable, unpopular and inefficient.** The only question is whether change will be systematic, evidenced based and sensible.

There are three important caveats to the set of recommendations set out here. The first is that many of the challenges facing the English planning system relate to much bigger constitutional questions. For example, how much power should citizens have over their local environment? What is the balance of power between central and local government in the highly centralised English system of governance? What are the appropriate boundaries and frameworks for local government? The Review has highlighted how each of these questions is unresolved in England, and how this confusion impacts on our ability to organise ourselves effectively. At this moment there is limited political interest in a rational reorganisation of English local government, but there is equally no doubt that in the longer term this will be vital to our collective future and the quality of our democracy.

The lack of constitutional clarity on these questions has a real, practical impact on the ground. The endless



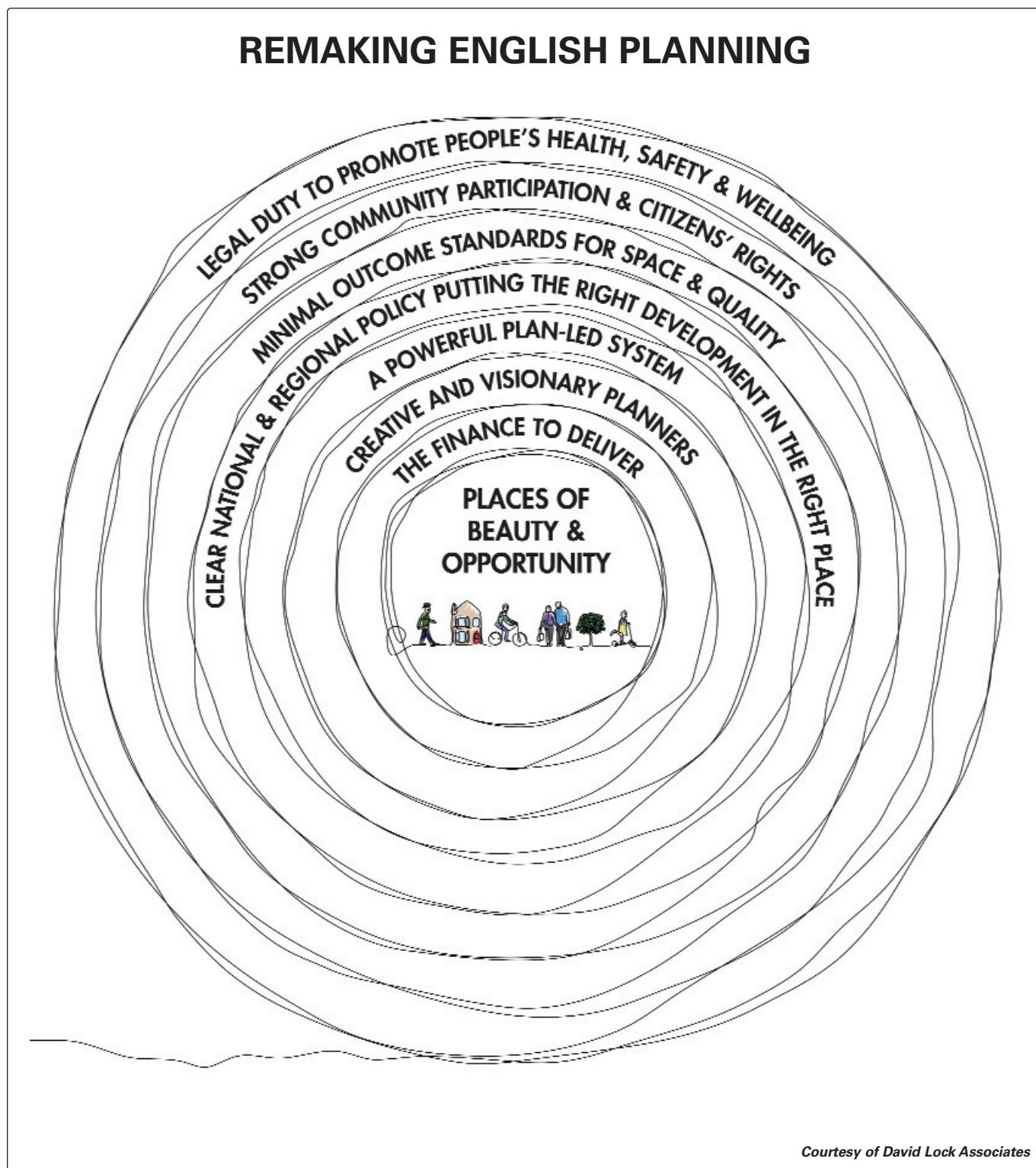


Fig. 11 Remaking English planning – the interwoven elements of delivering healthy, prosperous and beautiful places

renegotiation of strategic co-operation between local authorities or the debates about the importance of the voice of citizens in decision-making creates uncertainty and delay in the planning system and wastes the time of all sectors. As noted in Section 5, this deep-rooted confusion is not a feature of many other international planning systems, where these basic constitutional questions have been agreed. Since there is no prospect of resolving these major constitutional issues in the short term, the recommendations on the structure of planning and on people's basic rights are attempts to solve issues inside the planning framework. However, all these issues need and deserve more fundamental reform.

The second caveat is in relation to the Brexit process. Whether we like it or not, planning is about to embark on a process of further systemic change as a result of Brexit. For example, if the forthcoming Environment Bill applies directly to town planning, then new duties and institutions will be added to the system. If not (and that seems the probable outcome), then planning faces a period of deep uncertainty, with strong voices appealing for the abolition of EU-inspired Directives and equally strong forces arguing for their full translation into UK regulation.

The third caveat is that the positive reform of planning is extremely difficult in the context of the funding crisis gripping many local authorities. This Report has noted the scale of the existing budget cuts and the problems confronting authorities, as most recently evident in Northamptonshire. The reality is that while this Report recommends a new and ambitious role for local planning, this will be difficult to achieve until there are significant changes to local government funding. The government's decision to allow an increase in planning fees is welcome but is unlikely to yield the income necessary for an effective planning service. Neither will it help areas with low fee income but a real need to plan ambitiously for regeneration. As a public service, planning offers a range of benefits, not least long-term cost savings to health and social care budgets through the delivery of health-supporting environments. Like other key public services, it will need to go on being funded through taxation.

This Section sets out detailed recommendations on action necessary to deliver on each of the ten propositions put forward in Section 6, with the exception of Proposition 1, on the basic case for a planning system. As this Report has already made clear, the case for this is compelling and provides the justification for all the other recommendations.

Delivering a clear purpose for the planning system

Recommendations 1 and 2

Recommendation 1: A new legal duty to deliver sustainable development in England

The government should legislate to create a legal purpose for the planning system. The legal duty should be based on the following wording:

The purpose of planning

The purpose of the planning system is to positively promote the long-term sustainable development of the nation and the health, safety and wellbeing of individuals. In the Planning Acts, ‘sustainable development’ means:

- *managing the use, development and protection of land, the built environment and natural resources in a way which enables people and communities to provide for their social, economic and cultural wellbeing while sustaining the potential of future generations to meet their own needs; and*
- *promoting social justice and reducing inequality.*

The Review has noted the importance of expressing the objectives of sustainable development and health and wellbeing as meaningful legal duties. National planning policy provides an opportunity to cascade these general principles into greater detail. The current NPPF would need significant revision to operationalise these new legal objectives.

■ Why do this?

To ensure that planning has a clear and long-term objective which reflects the need to secure people's health and wellbeing.

■ How can this be achieved?

By creating a clear and powerful legal duty on all parts of the planning system.

■ Who needs to act?

Government and Parliament.

Recommendation 2: A cross-sector compact on the values of planning

A legal duty setting out the objectives of planning **will not on its own** address the divisions between the various sectoral interests on the value of planning. We noted the argumentative nature of many planning decisions, which are often marked by name-calling and confrontation. There is an urgent need for a long-term 'conversation' between the development sector, government, professional bodies and civil society groups to work out areas of common ground and improve the level of dialogue on planning reform, and crucially to rebuild trust in democratic planning. The focus of this conversation should be a cross-sector compact which seeks to gain wide consensus about the objectives of planning set out in Recommendation 1. There is a legitimate concern that such voluntary approaches can be more or less meaningless, but in the case of planning reform there is a real need to get the sectors into a more productive and challenging dialogue to establish what, if any, common ground they may have. We are optimistic that such common ground can be found and that this could contribute to a lasting settlement on planning reform which would benefit all parties.

■ Why do this?

To forge a wider cross-sector dialogue about the value of democratic planning.

■ How can this be achieved?

By producing a cross-sector compact focused on agreeing the value of planning and supporting the core objectives of the system set out in Recommendation 1.

■ Who needs to act?

A wide grouping of cross-sector partners, including, for example, the RTPI, RICS, the LGA, ICE, POS, RIBA, BPF, HBF, CBI, CPRE, RSPB, Civic Trust, the National Trust, universities, and MHCLG.

Delivering effective and people-centred planning

Recommendations 3-5

Recommendation 3: A new kind of positive and powerful Local Plan

The local development plan should be an effective and powerful statement of how a community will develop over the long term. It should command the confidence of all sectors by being the product of a participative act of co-creation between local authorities, communities and the wider development sector, all of whom are vital to good place-making. It should provide the forum for synthesising local strategies and giving them practical expression through action in the built and natural environment. The plan should be sovereign, not just for those applying for permission for development but for the community, local authority and politicians who have adopted it. Making decisions contrary to plan would need to be much more carefully justified than at present. The new enhanced status of the Local Plan would benefit from three key changes:

- **A new legal status:** The current status of the development plan in law should be enhanced by changing Section 38(6) of the 2004 Planning and Compulsory Purchase Act from:

'If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.'

to:

'If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless, and exceptionally, material considerations indicate otherwise.'

While this leaves open the opportunity for some discretion where a new piece of key information or challenge arises, it makes plain in law that such departures are exceptional and that the status of the

plan is pre-eminent. This would be a significant shift in the culture of local planning and would require a clear transitional period and a range of other supportive measures. **Strengthening the status of the Local Plan would help to build trust among all sectors, but other measures are necessary to ensure that plans are kept up to date and that they deliver on the ambition for a people-centred planning system.**

- **An enhanced legal duty to prepare a people-centred plan:** Local Plans must provide a holistic and integrated vision for the future, on matters ranging from human wellbeing to hard infrastructure needs such as roads and schools. Plan policy must be capable of being sufficiently precise to fulfil the legal obligations set out in Recommendation 1 to promote people's health and wellbeing. Section 8 of the 2017 Neighbourhood Planning Act¹⁵² already places a duty on local planning authorities to set out some limited strategic priorities, but the duty does not require any more detailed place-making policy. This duty should be amended as follows:

'(1B) Each local planning authority must identify both the strategic priorities for the development and use of land in the authority's area and polices necessary to secure the health, safety and wellbeing of communities and individuals.'

In order to ensure plans are kept up to date there should be a new, simple legal duty added to Section 19 of the 2004 Planning and Compulsory Purchase Act requiring plans to be reviewed every five years. The sanction, as with other failures of public services, would be central government intervention to control the plan-making process. The new legal duty to plan for sufficient homes in a local planning authority area (see Recommendation 10) should ensure that plans set realistic and deliverable targets for high-quality homes. Once adopted, plan policy would be much harder than at present to be judged as 'out of date' during the five-year lifetime of the plan.

Note

¹⁵² Which amends Section 19 of the 2004 Planning and Compulsory Purchase Act

■ **Making plan preparation more efficient:** We do not believe that there is a case for changing the plan-making regulations to remove stages of public consultation to streamline the process. This would simply undermine public trust. However, the five measures set out below could help to reduce 'delay':

- Ensure that plans are supported by strategic and national planning policy. Our proposals for a clear structure of planning, set out in Recommendation 12, would provide a much greater opportunity for Local Plans to take account of national and regional infrastructure and growth intentions, as well as environmental and infrastructure constraints. Such strategic policy support would allow for a proper conversation about where growth can be accommodated in any region, and about how best to link it to infrastructure investment. It would replace the highly complex and largely failed experiment of the duty to co-operate and would provide a framework to replace the strategic vacuum in many parts of England.
- Local Plans would be able to draw on a range of agreed data sets clearly articulated in a National Sustainable Development Plan, as proposed in Recommendation 12. These would include, for example, data on demographics and housing need, social inclusion, economics and markets, flood risk, regional inequalities, and travel patterns, together forming a unified data set on which Local Plans could draw. This would be the basis for 'smart plans' that do not duplicate or recommission evidence that is already clearly set out by a range of government agencies. New technology could vastly increase the accessibility of such data for sectors.
- The proposal that minimum standards on resilience, accessibility, etc. should be set out in either building regulations or in a new code, as put forward in Recommendation 11, would simplify the contents of Local Plans. In addition, the provision of model policies on a set of core place-making issues which local authorities could choose to adopt or adapt would save considerable time. Such policies should relate to key priorities, such as design for public health outcomes or parking standards, and should be set out by government.

- The fact that Local Plans in the same sub-region are currently prepared on differing timescales makes meaningful co-operation and co-ordination much more difficult to achieve. National planning policy should make clear that where strategic plans exist for a city region or other sub-region, the constituent Local Plans must be prepared on the same timescale to allow for coherent policy alignment.
- While there should be legal requirements to prepare and review a plan on a fixed timescale, there should be some flexibility on how it is expressed, to reflect local needs. Plans should be consistent in meeting the objectives of Recommendation 1, but they do not have to be of a uniform format. With the agreement of a planning inspector, Local Plans could be prepared not just as a single document but as a limited suite of plans. These would necessarily include a primary plan, containing the overall strategy, housing numbers, land allocations and other key policies, but could also include a small number of supplementary documents, which might be area or subject plans and development management policies. These would all be part of the statutory development plan and subject to the duty to prepare and review the plan. This approach would help to speed up the review process as some elements of Local Plan policy, such as the ambition for locally distinctive design, have a long shelf life and do not require significant review every five years.

■ **Why do this?**

To create confidence and ensure that plans deliver the certainty that communities and investors need to shape the future.

■ **How can this be achieved?**

By enhancing the legal status of Local Plans and setting a clear scope and binding timescales for their preparation.

■ **Who needs to act?**

National government, Parliament and local government.

Recommendation 4: Local planning authorities that act as 'master-developers' to ensure that Local Plans deliver real change

Making plans does not make people's lives better; delivering them does. This requires, as the Letwin Review recommends, local authorities to positively shape development by acting as the 'master-developer' to co-ordinate change in a timely manner. And that means local planning authorities operating development companies, purchasing land, acquiring land through compulsory purchase for comprehensive development, and commissioning work and forming partnerships with the private sector.

The scope of this place-making role is broad and should involve a greater stake in energy and other utility provision and in encouraging stewardship models for long-term community renewal. This notion of an active and positive local planning authority is principally a matter of resources and culture, since most of the necessary legal powers – from compulsory purchase to the general power of competence – exist, albeit in a fragmented way. Success in playing this role will depend on action on other recommendations made here, on the status of the development plan, and on local authorities having the appropriate skills and resources for local authorities. However, the government should clearly set out in policy an ambitious direction of travel that builds upon the recent relaxation of borrowing caps for local authorities.

Since a key barrier to a more active and positive public sector is access to land at the right price, three specific enabling measures are required:

- Building on the recommendations of the Letwin Review, the government should amend the NPPF to set out the value of a stronger public sector lead in the delivery of new and renewed communities.
- The government should set out clearly the formula for calculating returns to landowners in viability testing in the NPPF and Planning Practice Guidance.
- The government should amend the Compensation Code set out in the Land Compensation Act 1961 to make clear that hope value should not form a part

of market valuation for calculating compensation payments for compulsory purchase (see Recommendations 17-20).

■ *Why do this?*

To ensure that local councils deliver on the ambition of their plans.

■ *How can this be achieved?*

By setting out in national policy a clear expectation that local planning authorities will be a major delivery partner, and by ensuring that government enables such activity by dealing with the Compensation Code.

■ *Who needs to act?*

Local government, with support from national government and professional bodies.

Recommendation 5: Community powers to plan effectively

Communities and the local authorities who represent them must have the powers they need to positively plan for the future. These powers must enable communities to shape developments (including the change of use of buildings) which have a real impact on people's safety, health and wellbeing. Strengthening the development plan will help in this, but there is also a need to return to the local level powers that have been centralised. **Of all of such issues, it is restoring basic controls over the conversion of office and commercial buildings to housing units which is the most urgent.** This requires a new and simplified General Development Order which would give local authorities the powers to control such development. It would also give them the freedom to set their own permitted development regimes for minor development where this is consistent with the objectives of sustainable development and the health and wellbeing of their citizens. Other areas where local discretion has effectively been removed, on issues such as fracking and onshore wind, should be reformed to give communities a measure of real choice, based on the evidence, as to whether such development should take place.

There should be a general presumption, stated clearly in a revised NPPF, that local decisions are taken locally, and that local powers should only be withdrawn in clearly defined and transparent circumstances. Achieving this is difficult because there is no constitutional law which establishes the limits to central government interference in local authorities, and because intervention can be justified where there are real local failures of the system. In considering the impact of new planning policy, government should consider more carefully how the removal of local discretion can undermine trust and promote resentment among local communities.

■ *Why do this?*

To ensure that communities have the power they need to promote positive planning in the public interest.

■ *How can this be achieved?*

By shifting control of specific forms of development back to the local level.

■ *Who needs to act?*

Government.

Delivering a new community covenant

Recommendations 6-9

Recommendation 6: Increased accountability and community participation

Planning is an important part of our democracy, but clear accountability is often perceived to be missing and consultation is often considered tokenistic. The planning system now includes referendums on Neighbourhood Plans, but for no other part of planning; and there is no clear accountability for the strategic plans of the new devolved partnerships, such as the combined authorities, which exist outside of Greater London. Developing a strong democratic and legitimate governance framework for planning requires three interlocking components:

- a transparent process of democratic accountability in all decisions, making clear whether this is based on representative, direct, or participative democratic models;
- clear citizens' rights; and
- support for communities to participate meaningfully in decisions.

The single greatest democratic deficit lies in strategic planning. The current position of a fully accountable process for strategic planning in London, but in no other part of England, is neither fair nor sustainable. As Section 4 made clear, the highly variable arrangements that have emerged from devolution mean that some strategic planning documents have no direct accountability and little meaningful public participation. Whatever the technical merits of the plans, they are unlikely to have lasting influence without direct accountability.

As a matter of basic democratic logic, powerful strategic plans outside London should be prepared by a body which is directly accountable to the public. The problem is that this would require directly elected strategic bodies, as well as elected mayors. The adoption of the London model in other parts of England would require the rethinking of devolution on a scale which appears politically inconceivable. In this context, we can only recommend measures to secure the 'least worst' outcome by ensuring that regional and sub-regional strategic plans:

- do not carry the status of a development plan;

- are subject to independent examination which provides a right to be heard for the public; and
- must be agreed by a formal resolution of all the constituent local planning authorities.

These requirements are set out in Recommendation 12, which puts forward a new structure for planning.

■ *Why do this?*

To ensure that all parts of the planning framework are democratically accountable.

■ *How can this be achieved?*

By introducing democratic safeguards for the strategic planning process.

■ *Who needs to act?*

Government and mayoral and combined authorities.

Recommendation 7: A new legal duty to promote the Aarhus Convention rights

The 1998 Aarhus Convention sets out a framework of rights that should guide people's opportunities to shape decisions which affect them. This framework should apply to all aspects of the planning endeavour, from neighbourhood planning to the NPPF, and from the local control of development to decision-making on national infrastructure. The Aarhus Convention consists of three primary objectives on access to information, a right to participate, and a right to challenge. A new duty on both government and local authorities should make clear that this framework has direct effect on all forms of planning decision-making. The government has signalled its support for such a move by enshrining the Aarhus Convention rights as part of the environmental principles adopted in the European Union (Withdrawal) Act 2018. At the time of writing, it is not clear whether these principles will apply to the planning system. The forthcoming Environment Bill will clarify the position.

In addition, action is needed if all three of the Aarhus Conventions objectives are to be delivered in way that allows for a fair and inclusive planning system, as follows:

- **Access to information:** While the Freedom of Information Act provides a strong basis for accessing planning information, it still leaves the opportunity for extensive exceptions for commercially confidential information. The government should make clear that it expects an 'open-book' accounting approach to *important financial information* in the planning process. It should move to outlaw confidentiality agreements between local authorities and other public or private companies such as those used by HS2. These are not in the public interest and reinforce suspicion and mistrust.
- **A right to participate:** The promotion of active public participation in planning decisions should replace the passive approach of 'consultation'. Participation demands an ongoing sharing of

responsibilities and the co-creation of policy. Participation is defined by the sharing of power and responsibility and requires local authorities and planners to be skilled facilitators and enablers.

■ **A right to challenge:** Access to justice in planning is highly restricted. The process of judicial review is complex and can risk significant costs. Reductions in legal aid have made this situation worse, so that challenging planning decisions in the courts is normally the preserve of NGOs, wealthy objectors, developers, and public bodies. Cost capping for 'Aarhus Convention claims' has helped only in part. The Review has noted the uneven distribution of appeal rights in planning. The fact that only applicants have such rights of challenge has long been a source of basic inequality in the governance of planning.¹⁵³ We also noted the potential administrative gridlock that could result from trying to have a fair appeal system. A planning system mired in endless challenge and counter-challenge would not be fit for purpose, and we acknowledge that getting the balance right is extremely difficult. Furthermore, this recommendation crucially assumes that Local Plans would be under a statutory duty to be kept up to date and replaced, where necessary, every five years. As result we recommend the adoption of a **community right to challenge** which would be limited in the following ways:

- It would apply only to those applications in town and county planning which were defined as departures from the local development plan. These cases are already identified by all local planning authorities.
- It would apply only to major applications (for example residential development of more than ten homes or applications requiring Environmental Impact Assessment).
- It would require the Planning Inspectorate to review such appeals to determine if they had merit (for example if there was an arguable breach of Local Plan policy).

Note

¹⁵³ The justification for the lack of a community right of appeal was historically that the local planning authority was acting in the public interest. As this Final Report shows, this assumption no longer holds

- It would require a fixed number of electors to support the appeal in writing.
- It would require a fee.

In addition to these changes, applicants who appeal decisions made in conformity with the plan would also have to pass the ‘leave to appeal’ stage of the process, at which a judgement would be made on whether the appeal had merit. Recourse to the courts would remain an option for all parties.

One overall impact of this change would be to increase the weight of the Local Plan in decision-making and reduce speculation in land. Coupled with Recommendation 3, it should reduce speculative applications against plan policy. The tests for the community right of appeal would act as safeguards against potential abuse of the right, such as by those seeking to settle personal scores or advancing a case with no obvious merit.

- **Why do this?**
To ensure robust citizens' rights in planning decisions.
- **How can this be achieved?**
By creating new rights in the planning process based on the Aarhus Convention.
- **Who needs to act?**
Government and Parliament.

Recommendation 8: Transformed public awareness of planning

We noted that many communities have little or no knowledge not only of the planning system but of the real opportunities that exist to make better places. Neither do they have access to basic resources to help them respond to planning applications. Empowering people with the skills to make their case has to go hand in hand with enhancing their knowledge of the challenges and opportunities which will shape our future.

This Report has made clear that new technology could transform the way that people engage with the built environment, by giving them better access to information and providing new tools to help create and express community visions. We were impressed by the potential of these new tools if they were to be applied in the context of clear citizen rights and robust democratic frameworks.

However, capitalising on these new technologies is a major challenge in the context of local authorities no longer having the resources to fund community development activities or local community hubs and knowledge centres such as urban studies centres.

Funding has also been reduced for key services designed to offer help to those who cannot afford to pay for advice, such as Planning Aid. Resources for neighbourhood planning do exist, but this is only one part of the planning system. A range of bodies led by government should act to:

- harness the benefits of new technology in reaching out to the public, by transforming the way that information is presented, providing accessible and engaging visualisations of new proposals, and new platforms for dialogue;
- redirect resources to general planning advisory services and to developing and supporting the work of Planning Aid;
- establish a community planning portal to act as a hub of plain English (and plain other languages) community resources on planning;
- work with the Department of Education to embed planning skills in the national curriculum as a key part of citizenship; and

- harness the resources of the planning schools to support community understanding and empowerment.

■ ***Why do this?***

To ensure that the public is aware of the opportunities that planning creates to enhance communities' and people's wellbeing.

■ ***How can this be achieved?***

By making better use of new technology and through investment in community support.

■ ***Who needs to act?***

Government and local government, planning schools, professional institutions, the private sector, NGOs, and civil society groups.

**Recommendation 9:
Promotion of a national conversation on our development needs**

We noted the difficulty of engaging people with 'big picture' (regional and national) infrastructure and growth. This problem is compounded by the technical and often legalistic examination of infrastructure projects. Promoting forums to debate principles and vision coupled with a much more active 'national conversation' about strategic planning would promote a greater sense of ownership and understanding of the challenges and opportunities of major new development, and would also yield a rich seam of community knowledge that could improve the quality and accountability. The Institute for Government has recommended forming an independent Commission for Public Engagement.¹⁵⁴ Such a commission should have the remit to promote a national debate on planning and:

- promote a national conversation to support the production of a National Sustainable Development Plan;
- promote debate on individual major infrastructure projects; and
- provide an independent body to set standards and best practice in public participation in regional and local planning.

The government should establish an Institute of Public Debate to work alongside the National Infrastructure Commission.

■ ***Why do this?***

To ensure greater public participation in planning.

■ ***How can this be achieved?***

By creating an independent body capable of promoting and reflecting the public's views on major plans and projects.

■ ***Who needs to act?***

Government.

Note

154 N Davies, G Atkins and D Slade: *How to Transform Infrastructure Decision Making in the UK*. Institute for Government, Feb. 2018. <https://www.instituteforgovernment.org.uk/publications/how-transform-infrastructure-decision-making-uk>

Securing standards on minimum outcomes for people **Recommendations 10 and 11**

The Review has noted the need to balance a fair and accountable planning process with the rights of individuals for basic outcomes which support their health, safety and wellbeing. This means paying attention to the needs of all parts of society over their whole lifetimes, and requires a particular focus on future generations, those on low incomes, groups who do not normally engage in planning, and those with defined characteristics under equality legislation.

We noted the suggestion of establishing a right to a decent home but could find no way of making this legal duty **meaningful** in the English planning system. The vital duty on sustainable development set out in Recommendation 1 creates a clear obligation to future generations and to reduce inequality. The consideration of a national building code of minimum standards could secure better outcomes for everyone on issues such as space and accessibility. This leaves open the opportunity for a new duty on local planning authorities to plan for decent and genuinely affordable homes.

Recommendation 10:

A duty to local planning authorities to plan for high-quality and affordable homes

As this Report makes clear, there is no duty on local planning authorities in relation to meeting housing needs. This is an odd omission given the government's focus on housing and the fact that planning law contains other outcome-based duties.¹⁵⁵

Local authorities are already subject to housing duties in relation to issues such as homelessness, and the government should introduce a new duty on local planning authorities to plan for the long-term housing needs of the area. This duty should make clear the obligation to plan for the full range of housing needs expected in the area, with a particular emphasis on the provision of genuinely affordable and high-quality homes. (Recommendation 12 makes clear that this might be achieved by super-regional agreements for growth points where that is the most sustainable outcome.)

The new duty would require an amendment to Section 19 of the Planning and Compulsory Purchase Act 2004 through the following insertion:

'Development plan documents must (taken as a whole) include policies designed to meet the housing needs of the local planning authority's area in such a way as to secure the long-term health, safety and wellbeing of residents. In meeting such needs planning authorities should have particular regard to both ensuring that housing is affordable to those on average or below-average household incomes and the objective of securing beauty in design.'

The delivery of this duty should be set in the context of our wider recommendations on a strategic approach to dealing with growth.

■ *Why do this?*

So that local planning authorities ensure that everyone has access to a decent home in a human-scale environment that they can afford.

■ *How can this be achieved?*

By creating a legal duty on local planning authorities to plan for the housing needs of their area.

■ *Who needs to act?*

National government, Parliament, and local government.

Note

¹⁵⁵ On climate change, design and sustainable development, although the last two duties are very vaguely drawn

Recommendation 11: Consideration of a new building code

There should be greater clarity between the three sets of standards that shape the quality of places and protect people's health, safety and wellbeing:

- building regulations, focused on building fabric and set by national government;
- national standards on space and accessibility, currently set out by national government but not compulsory and subject to viability testing; and
- local and strategic plan policy.

As well as making clear the precise scope of building regulations, the government should consider the publication of a new national building code which bundles together a set of issues where minimum mandatory standards are vital for people's safety, health and wellbeing. These standards should include minimum requirements for residential development in relation to:

- health and wellbeing, including fire safety issues not addressed in building regulations;
- internal space standards on room sizes and storage;
- external space standards related to the type of development;
- accessibility standards;
- energy performance;
- standards of access to green and play space; and
- resilience measures, including sustainable urban drainage systems and measures to promote urban cooling.

These standards would be mandatory unless there are exceptional circumstances. We recognise that there is an ongoing review of building regulation in MHCLG and that some of these issues could be dealt with through this regime.

■ *Why do this?*

To provide transparent minimum standards of development to ensure people's safety and wellbeing.

■ *How can this be achieved?*

By creating a clear code of standards in secondary legislation.

■ *Who needs to act?*

Government.

Delivering simplified planning structures

Recommendations 12-14

The Review noted the confused division in the structure of English planning between the town and country planning system and the major infrastructure system, as well as the extraordinarily complex and endlessly amended planning legislation. We believe that three recommendations on such matters would increase the effectiveness of, and simplify, the planning system.

Recommendation 12: A smart structure for planning

Planning in England should consist of four interlocking tiers, each with a defined focus and governance arrangements and each designed to support the activities of the other. This framework may instantly be read as 'top-down' imposition, but the reality is very different.

The system is designed to locate the bulk of the decisions which matter to people at the Local Plan level. This plan, and only this plan, would benefit from the enhanced legal weight described in Recommendation 3. Neighbourhood Plans already receive this status once adopted by the local planning authority. Sub-regional and national plans would provide a vital source of key data on national and strategic growth issues as well as strategic constraints. **They would synthesise and make transparent the differing national policies which shape local development, allowing local communities, for the first time, to understand what is going to happen to them and what they can do about it.** Local planning will be most effective where local planning authorities and local communities have confidence that they will be supported, and not frustrated, by the decisions taken in 'another place' or by another body. To bridge the strategic gap that exists now, these higher-level plans would have to be considered in the preparation of Local Plans. The structure would operate as follows:

- **National Sustainable Development Plan:** The National Sustainable Development Plan (NSDP) would have three core objectives:
 - To provide a long-term and integrated strategy to guide the sustainable development of the nation. This would involve expressing on a map the planning implications of all the government's national strategies that are relevant to development, including the Industrial Strategy, the 25 Year Environment Plan, the Infrastructure Needs Assessment, NHS and public health strategies, etc. The NSDP would provide the opportunity, for the first time, to set out a national housing strategy that could indicate preferred areas of search for strategic growth.

- To work with other national agencies (including the Office for National Statistics, the Environment Agency, the Infrastructure and Projects Authority, etc.) in order to collate and map all the data that already exists and is essential for effective planning, including economic and demographic data and data on water resources, transport, flood risk, health, social exclusion, and regional inequalities. The data should be presented in map form, made accessible to everyone and thus reducing the need for local planners to produce their own data.
- Responsibility for preparing National Policy Statements would shift from government departments to the National Infrastructure Commission, and they would be prepared in the context of the NSDP. These documents would be subject to our ambitions for increased community participation and would require separate parliamentary approval. The definition of Nationally Significant Infrastructure Projects would be returned to the focused original description set out in the 2008 Planning Act. The need to retain National Policy Statements as separate documents rather than integrated into a national plan is not logical, but it does reflect the special legal status of National Policy Statements in decision-making.

The NSDP should be revised every five years and approved by Parliament by positive resolution. It should be prepared by an enhanced and refocused National Infrastructure Commission and developed in the context of Recommendations 6-9 on public participation and the ambition for a ‘national conversation’.

- **Sub-regional strategic plans:** Bringing some clarity to the confused pattern of strategic planning in England was one the hardest tasks in the Review. There is no doubt about the value of such plans in co-ordinating regional development and providing clarity for Local Plan formulation, but it is not easy to

regularise the strikingly differing kinds of strategic approach in England, from statutory arrangements in London to informal non-statutory arrangements in some shire counties. However, the current position is neither effective nor tenable over the long term.

It is extremely difficult to justify the vastly differing levels of accountability over strategic planning that exists across England. There are real and multiple benefits to the creation of a common approach to strategic planning in England. We are clear that the model of strategic planning in London, with the accountability offered by the Greater London Authority and the formal relationship between the London Plan and borough Local Plans, is the most logical and democratic way to organise strategic planning. We are also clear that a return to the standard regions of England, arbitrary though they were, would be a marked improvement on the current chaotic arrangements. We also recognise that at present there is little political consensus favouring the creation of such a regime outside of Greater London. In this context the current ad hoc system could be improved by making it clear that strategic plans should:

- be adopted by combined authorities, county councils, unitary authorities¹⁵⁶ and joint committees;
- be focused on strategic issues and provide clear guidance for Local Plan preparation, including identifying strategic growth areas and areas of significant constraint;
- be prepared having full regard to the NSDP;
- be subject to public examination;
- be approved by each constituent authority; and
- have a clear and direct form of democratic accountability to communities.

- **Local development plans:** The Local Plan, with its enhanced status, would remain the key statutory development plan for an area, subject to changes set out in Recommendation 3. It would reflect the ambition for a people-centred plan capable of being the key co-ordinating strategy for a locality and

Note

¹⁵⁶ Subject to legal changes to the planning powers of unitary authorities

| | Remit | Institutional ownership | Accountability |
|--|---|---|--|
| National Sustainable Development Plan | <ul style="list-style-type: none"> ■ Spatial expression of agreed national data ■ National infrastructure priorities ■ Combined National Policy Statements | <ul style="list-style-type: none"> ■ National Infrastructure Commission | <ul style="list-style-type: none"> ■ Parliamentary approval of National Spatial Framework |
| National Planning Policy Framework | <ul style="list-style-type: none"> ■ Limited to generic national policy | <ul style="list-style-type: none"> ■ Ministry of Housing, Communities and Local Government | <ul style="list-style-type: none"> ■ Parliamentary approval |
| Building code | <ul style="list-style-type: none"> ■ Building standards reflecting minimum design standards | <ul style="list-style-type: none"> ■ Ministry of Housing, Communities and Local Government | <ul style="list-style-type: none"> ■ Parliamentary approval |
| Strategic Regional Plan | <ul style="list-style-type: none"> ■ Focused on areas of change ■ Strategic infrastructure ■ Growth | <ul style="list-style-type: none"> ■ Combined authorities ■ County councils ■ London Plan ■ Voluntary collaboration | <ul style="list-style-type: none"> ■ Representative democracy? |
| Local Plans | <ul style="list-style-type: none"> ■ Statutory development plan ■ Defined policy areas ■ Site allocations | <ul style="list-style-type: none"> ■ Local planning authority | <ul style="list-style-type: none"> ■ Local representative democracy |
| (Optional) Neighbourhood Plans | <ul style="list-style-type: none"> ■ Design and detailed place-making | <ul style="list-style-type: none"> ■ Parish councils ■ Neighbourhood forums | <ul style="list-style-type: none"> ■ Direct democracy |

Fig. 12 The smart planning framework in outline

integrating the ambitions of other agencies in relation to issues such as health and wellbeing, as well as jobs, housing and the environment.

- **Neighbourhood Plans:** Neighbourhood Plans would remain optional, but with resources redirected to support communities facing the greatest social, economic or environmental challenges. There would also be greater clarity about the remit of such plans, which would, for the first time, be subject to the same legal requirements as Local Plans in relation to sustainable development and other issues.

Some aspects of this framework, and most obviously the NSDP, would require legislative change of the kind described in Recommendation 14.

- **Why do this?**
To create a logical and effective structure for planning in England while focusing the majority of decisions at the local level.
 - **How can this be achieved?**
By creating a logical and self-supporting structure for the planning system.
 - **Who needs to act?**
Government, local planning authorities and communities.

Recommendation 13:

The use of bespoke delivery bodies to deal with long-term planning problems

The framework described above is unlikely, on its own, to meet the real-world challenges set out in Section 5. In some parts of England the challenge of population growth, or the impact of coastal realignment due to increasing sea level rise, or the challenge of social renewal, cannot be dealt without national support and strong co-ordinating bodies. In these cases, reformed Development Corporations should play a leading and long-term role in planning for the future. The NSDP and regional and sub-regional strategic planning should identify these potential challenges, and local authorities should be directly engaged in the co-creation of Development Corporations and in deciding precisely where they operate. There are at least five defined circumstances where a Development Corporation might be used:

- the creation of new communities to meet housing demand;
- the regeneration of towns or sub-regions facing major social, economic and environmental challenges;
- specific areas of shared environmental vulnerability to flood risk and sea level rise, where collaboration across local authorities is in the national interest – for example the east coast from the Humber to the Thames;
- areas vital to future flood resilience, such as upland areas of Cumbria where landscape-scale land management is vital to building the resilience of surrounding communities; and
- small-scale community regeneration based on the US Community Development Corporation model.

■ *Why do this?*

To ensure the co-ordinated, effective and fast delivery of cross-border issues such as creating major new settlements and mitigating flood risk.

■ *How can this be achieved?*

By modernising the legislation that creates New Town Development Corporations, Urban Development Corporations, and Mayoral Development Corporations.

■ *Who needs to act?*

Government.

Recommendation 14: **A new Sustainable Development and Wellbeing Act**

The Review has made clear that further incremental change to an already complex system is no longer a viable option for change. Since enacting some of these recommendations will require legislative change, and since further changes to planning will undoubtedly be driven by Brexit, there is an opportunity to produce a simplified and consolidated piece of planning legislation. The task of consolidation is complex, but should have three objectives:

- To consolidate the legislative changes that have occurred over the last 28 years.
- To integrate the differing planning regimes (the town and country planning, Nationally Significant Infrastructure Projects and New Towns regimes, for example) into one legislative framework.
- To introduce the key changes set out in this Review.

The Law Commission is ideally placed to lead this task.

- ***Why do this?***
To simplify and increase the clarity of planning law.
- ***How can this be achieved?***
By creating a single consolidating Act.
- ***Who needs to act?***
The Law Commission and Parliament.

Aligning the agencies of English planning Recommendations 15 and 16

The Review noted both the complex set of institutions and relationships that have a role in the English planning system and the opportunity that exists to bring these bodies into alignment to ensure greater co-ordination of effort. At the local level Recommendation 3 sets out a new role for local authorities in planning. At the national and regional level there is an even bigger opportunity for positive change. The objectives of Recommendations 15 and 16 are to distinguish those bodies making policy from those involved in delivery, and to provide a new and clearer purpose for those organisations.

Recommendation 15: A re-purposed National Infrastructure Commission

The existing functions and remit of the National Infrastructure Commission should be enhanced and placed on a statutory footing. The enhanced National Infrastructure Commission would have three functions:

- It would act as a laboratory of spatial information, working closely with the Office for National Statistics and other government agencies to provide an integrated evidence base for national and local planning.
- It would prepare the NSDP put forward in Recommendation 12, which would integrate and spatially express key government policy such as the Industrial Strategy and the 25 Year Environment Plan, among others. National Policy Statements would remain separate documents, but would be prepared by the National Infrastructure Commission in much more open and transparent way than at present, through the work of the Commission for Public Engagement discussed in Recommendation 9.¹⁵⁷
- It would set out strategic growth and advice on where special planning arrangements such as Development Corporations might be necessary.

■ ***Why do this?***
To create a single body responsible for national planning issues.

■ ***How can this be achieved?***
By creating a statutory purpose for the National Infrastructure Commission.

■ ***Who needs to act?***
Government.

Note

¹⁵⁷ There is a case for removing the need for separate National Policy Statements in the context of a national strategy, but they have a defined status in law which would need to be retained for the operation of the Nationally Significant Infrastructure Projects regime

Recommendation 16: **An enhanced role for Homes England**

If the National Infrastructure Commission were the key thinking and strategising body, then Homes England would become the key national delivery agency. Homes England, previously the Homes and Communities Agency, was established in 2008 as the government's housing, land and regeneration agency and the regulator of social housing providers in England. It already has a powerful statutory basis and is rapidly growing in scale to help deliver more and better homes in partnership with councils and other delivery partners.

In addition to Homes England's current programme of growth, it should have responsibility for supporting the implementation of Development Corporations identified in the NSDP (and supported by the relevant local authorities).

There is also a powerful case for enhancing Homes England's co-ordinating role on both a national and regional basis. Homes England already has a regional structure and could play an enhanced co-ordinating role between Local Enterprise Partnerships and the work of local and combined authorities. Such bodies could also perform some of the tasks previously delivered by the Government Offices for the Regions. The long-term objective here would be to create a single integrated body capable of supporting infrastructure delivery and investment with the sensitivity to regional and sub-regional needs that has often been lacking from national government departments.

■ *Why do this?*

To ensure that there is an effective national and regional development agency in England.

■ *How can this be achieved?*

By enhancing and re-purposing Homes England.

■ *Who needs to act?*

Government.

Tackling betterment values Recommendations 17-20

We are clear that a fair approach to capturing the betterment values created by the planning process is one of the most important ways to secure both the amount and the quality of development that the nation needs. A successful approach could contribute to the provision of infrastructure to unlock growth and provide funds for the long-term stewardship of communities. We also recognise the international lessons on good practice and the practical and political difficulties of securing such outcomes in England. The Review examined the case for the reintroduction of a single development charge and the benefits of mechanisms such as Kate Barker's recommendation of a planning gain supplement.

However, we have opted for an evolutionary approach which builds on the benefits of using Development Corporations and enhancing the status of the development plan and local planning authorities. One important caveat to these recommendations is that betterment values are not a 'money tree'. Successful approaches to tap betterment through planning will depress land prices and reduce the tax take through other mechanisms such as capital gains tax and stamp duty land tax. Betterment values are real and substantial, but the private sector respondents were right to point out that there is a need for wider examination of the total tax burden on betterment. However, we were impressed by the evidence given to the House of Commons Housing, Communities and Local Government Committee¹⁵⁸ that an average figure for the total tax burden from planning requirements and national taxation measures was around 50% of the total betterment value. Since betterment is a value created by public authorities, it seems clear that there is further headroom to increase the capture of these values while still offering a fair margin of gain to landowners. We believe that action is needed in four areas to begin to secure a better, fair and transparent process of betterment taxation, as set out in Recommendations 17-20.

Recommendation 17: Effective land assembly and land value capture powers for public authorities

One of the most efficient ways to secure betterment values is for public authorities to act as master-developers. The purchase and assembly of land has multiple related benefits in terms of delivery and is a proven way (demonstrated both by the UK New Towns programme and by international experience) of achieving the certainty and co-ordination to drive delivery. The degree to which betterment values are captured depends on the ability of public authorities to purchase land at or close to its current-use value. Development Corporations have powers to purchase land by agreement or through compulsory purchase. Changes to the process of compulsory purchase have been helpful but have not dealt with the issue of hope value as an element of market valuation. The government has made clear that hope value should be disregarded as a factor in viability testing in the NPPF, and this logic now needs to be applied to the Compensation Code set out in the 1961 Land Compensation Act.

The expansion of permitted development rights also has implications for this approach, since landowners can legitimately ask for much larger compensation based on, for example, their right to convert agricultural buildings to housing units. Since local planning authorities also have the power to acquire land through compulsory purchase for comprehensive redevelopment, there is no reason why this method could not have wider applicability, depending on the strength of the development plan and the capacity and funding of local planning authorities. We also note that Homes England has such powers, which could support its work as a re-purposed delivery agency. Four specific actions are needed to unlock the potential of this form of land value capture:

- legislative change to the Land Compensation Act 1961 to remove hope value as a factor in market valuation;
- the return of control over permitted development to the local level, as set out in Recommendation 5;

Note

¹⁵⁸ *Land Value Capture*. HC 766. Tenth Report of Session 2017-19. Housing, Communities and Local Government Committee. House of Commons, Sept. 2018, para. 28. <https://publications.parliament.uk/pa/cm201719/cmselect/cmcomloc/766/766.pdf>

- the increased use of Development Corporations as part of a wider strategic approach to planning in England, as set out in Recommendation 13; and
- the strengthening of the legal status of the Local Plan and of the role of local planning authorities as master-developer, as set out in Recommendations 3 and 4.

■ **Why do this?**

To provide a fair balance between the needs of landowners and the public and to aid large-scale delivery.

■ **How can this be achieved?**

By changes to the Compensation Code and by greater use of Development Corporations.

■ **Who needs to act?**

Government.

Recommendation 18:

A strengthened status for the development plan to enable it to capture betterment values

We received some persuasive evidence about the opportunity to use strong Local Plan policy requirements to capture land values. The mechanism is simple in outline. Local Plans should set out a clear and unequivocal range of public interest outcomes in relation to design standards, green space provision, transport infrastructure, affordable housing, etc. These outcomes would be secured through direct policy requirements, through the Community Infrastructure Levy, and through clear expectations on the outcomes of Section 106 negotiations. These are costs to the developer which are then passed on to landowners, reducing land prices over time as the market readjusts.

There remains some dispute over how far this system can be adopted now in light of the debate noted in Section 5 on the legal weight of the development plan in England and the degree to which the land market would respond in the short and medium term given the expectations of values currently being secured. While land option agreements can be renegotiated, land already purchased for development would, under this proposal, be subject to new and unanticipated development costs.¹⁵⁹ As a result, there will be a need to consider a fair transition, including a more active role for local government as a direct partner in development.

This approach is now more credible given the changes made to viability testing in the new NPPF and Planning Practice Guidance, where policy is clear that '*The price paid for land is not a relevant justification for failing to accord with relevant policies in the plan.*'¹⁶⁰ Progress has also been made on providing greater clarity and certainty in calculating land values. However, key areas of uncertainty remain, particularly over what a fair

Notes

159 The courts have begun to uphold plan policy against challenges on viability – see *Parkhurst Road Ltd v Secretary of State for Communities and Local Government and Anor* [2018] EWHC 991 (Admin)

160 *Planning Practice Guidance: Viability*. Par. 002. Ref. ID: 10-002-20180724. Revision date: 24 Jul. 2018. Ministry of Housing, Communities and Local Government. <https://www.gov.uk/guidance/viability>

premium for landowners should be. This premium over existing-use value is not defined in Planning Practice Guidance, although the margins for acceptable profits for developers are. The opportunity for challenge by developers remains both at the plan-making stage and at application stage. Three actions are required to enable this approach:

- Strengthening the status of the development plan as set out in Recommendation 3.
- Make changes to viability testing to clarify levels of acceptable returns to landowners, building on the recommendations of the Letwin Review.
- Set precise and certain policy requirements in Local Plans, informed by viability testing, and detailed enough to allow for meaningful market decisions on land prices.

■ ***Why do this?***

To ensure that Local Plan policy can be used effectively to capture land values for public interest outcomes.

■ ***How can this be achieved?***

By enhancing the status of the development plan and making changes to viability assessment.

■ ***Who needs to act?***

Government, through changes to policy, and local councils, by setting robust policy standards.

**Recommendation 19:
Reforms to the Community Infrastructure Levy and Section 106 planning obligations**

Changes to Section 106 agreements and the Community Infrastructure Levy have been subject to extensive review by government,¹⁶¹ but in principle they remain important delivery tools for local authorities in securing public benefits in the way described in Recommendation 18. We recognised the level of benefits generated by Section 106 agreements, and the evidence that this can, in some cases, capture a significant amount of the total betterment value. Both the public and private sectors were keen that this system should not be disrupted where it works well.

There are, however, real problems in the complexity and transaction costs of Section 106 agreements and their public acceptability. It is a system that is seen as lacking transparency to the public and fuelling community suspicion about the ‘purchase of planning permission’. The degree to which Section 106 agreements could be gamed by developers, based on the unfavourable terms of the 2012 NPPF viability test, was a real concern, and has led to substantial reductions in key outcomes such as affordable homes. The most difficult problem is the way that Section 106 agreements and the Community Infrastructure Levy reinforce regional inequalities by yielding most benefits in high-value and high-demand areas. Land values in some formerly industrial communities are such that there is simply no value to tap into, despite a real need for investment. **The national and regional distributional consequences of Section 106 agreements and the Community Infrastructure Levy cannot be ignored, but they are difficult to resolve – this is dealt with in Recommendation 20.**

Action is needed in three areas:

- Requirements for Section 106 contributions must be precisely and transparently expressed in Local Plan policy so that landowners and developers can negotiate realistic prices.

Note

161 A New Approach to Developer Contributions. Report by the CIL Review Team, Oct. 2016.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/589637/CIL_REPORT_2016.pdf

- Negotiations to challenge the level of such requirements in Local Plans must be conducted through open-book accounting.
- The basis for the viability test, which will determine plan requirements and potential challenges to such requirements, still requires much greater certainty over what would be an acceptable profit margin for landowners.

■ ***Why do this?***

To ensure that Section 106 agreements and the Community Infrastructure Levy are effective and transparent.

■ ***How can this be achieved?***

By making policy changes to the NPPF.

■ ***Who needs to act?***

Government.

**Recommendation 20:
Redistribution of national land tax revenues**

A form of betterment charge existed as part of the capital gains tax calculation up to 1985, and capital gains tax continues to tap into an element of betterment where this has been a factor in the disposal of land. And stamp duty land tax (SDLT), currently set at 5%, above a value of £250,000, yields significant amounts to the Exchequer and captures an element of betterment values.¹⁶² It was frustrating that we could not discover the total yield from either of these taxation approaches. Neither was it clear that MHCLG had weighed up the amount of this revenue when considering how to resource the planning service. Both forms of taxation are indirect ways of tapping into betterment values, and both only recoup such benefit when land is sold or transferred. Both forms of revenue would also be reduced if Recommendation 18 succeeded in lowering land values. Equally, both measures could provide revenue for investment funds for low-demand areas. SDLT could most easily be adapted to include a levy for such a purpose. Two specific actions are necessary on the part of the Treasury:

- a review of the total revenue stream currently derived by land taxation, in order to understand the relative potential of new forms or increased rates of betterment taxation; and
- a commitment to use part of the revenue from SDLT to redress the distributional consequences of Section 106 agreements and the Community Infrastructure Levy.

■ ***Why do this?***

To ensure that betterment taxation does not reinforce regional inequalities and enables investment in low-demand areas.

■ ***How can this be achieved?***

By making changes to stamp duty land tax to create an investment levy.

■ ***Who needs to act?***

Government.

Note

162 According to HM Treasury figures, in 2017/18 non-residential receipts from stamp duty land tax amounted to £3,598 million

Encouraging the creative and visionary planner Recommendations 21-24

An effective people-centred planning system requires planners, both in the public and private sectors, with the skills, enthusiasm and ethical commitment to make the system work. In the course of the Review we noticed a tendency for some respondents to consider issues relating to the culture and morale of planners as relatively 'soft', meriting only a 'nice to have' tag rather than being seen as essential. In reality, they are crucial to securing the ambitious outcomes that we advocate. Our final three recommendations are therefore focused on the need to sustain and extend a culture of creative and visionary planning.

Recommendation 21: Attracting, training, developing and supporting the necessary numbers of high-calibre planners

Both our university planning schools and the RTPI (Royal Town Planning Institute) play a key role in overseeing planning education. While we are pleased that the numbers of students enrolling in planning courses is increasing, there are three crucial challenges to be met in the coming years to ensure that we continue to recruit and retain sufficient planners with the necessary skills and commitment to deliver the agenda set out in this Review:

- ***Ensuring that the planning profession reflects the diversity of the communities for which it is working:*** This is not just an issue for planners – it affects a range of built environment professions. The professional bodies need to work together with national and local government to widen the pathways into the professions from groups who have hitherto been under-represented. This should include exploring opportunities presented through the extension of apprenticeships, as well as other incentives such as funding for bursaries. The RTPI is already helping to make this happen through its Future Planners programme, and planning schools are actively seeking to attract a more diverse body of students through their respective university's widening-participation initiatives; but there is considerable scope to co-ordinate activities nationally, regionally and locally to better target 'hard-to-reach' groups. There is a real opportunity to align these efforts with other organisations such as Urbanistas, the Stephen Lawrence Charitable Trust, Planning Out, the Architecture Foundation, the Academy of Urbanism, and the Geographical Association.
- ***Continuing review of education and continuous professional development programmes, to ensure that education and training reflect emerging as well as existing needs and so equip planners to operate effectively in a 21st century context:*** This, of course, includes the adoption of new technology to support and facilitate planning processes and to drive efficiency gains.

There should also be a focus on breaking down some of the barriers that currently divide the education and development programmes of the various built environment professions, including planning, architecture and landscape design, with a view to promoting greater collaboration and reducing silo working.

- ***Giving greater emphasis to community development skills, to ensure that planners are well equipped to engage creatively with communities to help them articulate a vision for the sustainable development of their areas:***
This is also an area where cross-professional collaboration is clearly desirable. The RTPI keeps planning education under regular review, and future reviews should reflect the need for stronger community development skills as part of the core competences of planning education. We also believe that a substantial part of all planning courses should be spent working with communities on planning issues. We recognise the difficulty of achieving this but believe that the benefits to students and communities could be transformational.

- ***Why do this?***

To ensure that we attract and sustain the creative talent we need to deliver on the ambitions of a renewed planning system.

- ***How can this be achieved?***

By supporting the right skills and prioritising the diversification of the planning service.

- ***Who needs to act?***

University planning schools and the RTPI, with the support of government.

Recommendation 22: A requirement for university planning schools to have a social mandate to support basic outcomes for people

University planning schools are required to fulfil their societal obligations through the establishment of a social accountability mandate. Inspired by the World Health Organization's commitment to the social accountability of medical schools, planning schools should be obliged to direct their education, research and service activities towards addressing the defined purpose of planning set out in Recommendation 1, with a particular focus on the social and spatial inequalities in the community, region and nation which they have a mandate to serve. Progress in relation to a school fulfilling its social accountability mandate, and evidence of embedding the United Nations' Sustainable Development Goals in the school's curriculum through the development and strengthening of 'live projects' with local (and distant) communities, could become key elements of RTPI accreditation. Part of this mandate would link to planning schools' activities in transforming the public awareness of planning (see Recommendation 8).

- ***Why do this?***

To support the purpose of planning set out in Recommendation 1 and to harness the power of higher education institutions to support community empowerment.

- ***How can this be achieved?***

By introducing new obligations on our planning schools.

- ***Who needs to act?***

University planning schools, through the wider corporate commitments of their institutions.

Recommendation 23:

Increased professional standing for planners, particularly within local government

Chief planning officers played a key role in the development and implementation of ambitious post-war reconstruction plans across Britain, but their role has been seriously eroded over recent decades to a point where the majority of local authorities no longer have a designated chief officer responsible for planning.¹⁶³ This process has accompanied a parallel change in the wider public perception of planners, from being primarily focused on creatively shaping the future economic, social and environmental wellbeing of the area into a more restricted, technocratic and negative role of determining whether planning applications should be approved or refused. The issue is not therefore simply a matter of status. It is about the ability to fulfil the visionary and creative role which is central to the message of this Review.

If we are to re-establish planning as a vital, creative and powerful influence in delivering economic success, social wellbeing and a vibrant environment for communities throughout the country, it will require leadership from both officers and members in local government. Chief planning officers must have the authority and respect required to co-ordinate the enormous range of inputs necessary in the creation of an effective and visionary plan for the future of their area, and then to oversee its implementation.

■ *Why do this?*

To support a wider culture change in which planning is seen as a central and positive local authority function, and to ensure that the best impartial advice is available to communities.

■ *How can this be achieved?*

By the creation of a statutory post of ‘Chief Planning Officer’ for Local Plan authorities.

■ *Who needs to act?*

National and local government.

Note

163 The Royal Town Planning Institute has found that only 23% of local planning authorities in the UK had a head of service post – see *Chief Planning Officers: The Corporate and Strategic Influence of Planning in Local Authorities*. RTPI, Jun. 2018.
<https://www.rtpi.org.uk/knowledge/research/projects/chief-planning-officers/>

Recommendation 24: **Introduction of a ‘Do no harm’ obligation in built environment professional codes of conduct**

We received a significant body of evidence from planners in both the public and private sectors about pressures to act in a way that posed serious questions about compatibility with the RTPI Code of Professional Conduct.

In some instances these ethical challenges were clear-cut – for example where individuals were asked to manipulate data. In many others, however, the issues were more complex, particularly in relation to permitted development consents. In such circumstances, planners felt uncomfortable about the expectation that they would not raise any objection to developments that would be self-evidently sub-standard and potentially harmful to people’s health and wellbeing. However, they did not feel that the existing code provides a sufficiently precise ethical standard to enable them to raise concerns and ultimately to make a judgement about their involvement. Similar concerns have been raised about the adequacy of existing professional codes and standards in the aftermath of the Grenfell Tower tragedy.

All this suggests the need for a review of existing codes of conduct, not just for planners, but more widely across the built environment professions.

Specifically, the case for adopting a ‘Do no harm’ (non-malfeasance) expectation similar to that applying to the medical professions should be considered. Since ‘harm’ in planning terms is harder to establish, this duty would need to be expressed clearly as applying

in circumstances where, in the considered judgement of the members of the profession, the outcome of a proposal is likely to have a demonstrably serious and damaging effect on the health, safety or wellbeing of members of the public. We were impressed by the ambition of the ethical code of the American Institute of Certified Planners, and recommend that these principles are also adopted into the code of conduct of professional bodies working in the built environment:

‘We shall seek social justice by working to expand choice and opportunity for all persons, recognizing a special responsibility to plan for the needs of the disadvantaged and to promote racial and economic integration. We shall urge the alteration of policies, institutions, and decisions that oppose such needs.’¹⁶⁴

■ **Why do this?**

To support professional planners in delivering outcomes that do not damage the health, safety and wellbeing of people.

■ **How can this be achieved?**

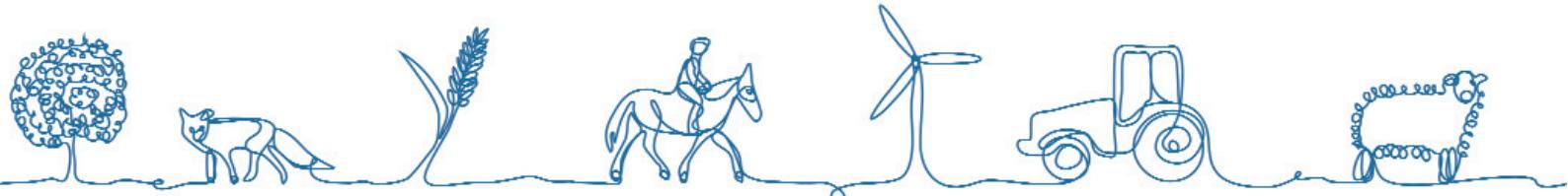
By making changes to the ethical codes of professionals who work in the built environment.

■ **Who needs to act?**

Professional bodies – RTPI, RICS, RIBA, ICE.

Note

164 *AICP Code of Ethics and Professional Conduct*. American Institute of Certified Planners, adopted Mar. 2005, revised Apr. 2016.
<https://planning.org/ethics/ethicscode/>



Section 8

Conclusions



What would the new system deliver for people?

The Raynsford Review began with a simple question about how we could achieve better outcomes for people. This Final Report has demonstrated both that planning is central to achieving this objective and that recent reforms have made the job much harder. We hope that, taken together, our recommendations would

put this right by delivering a system with the following distinctive characteristics:

- It would have a clear purpose which prioritises the wellbeing of people within the overarching objective of long-term sustainable development, aimed at making places of safety, beauty and resilience.
- It would be more predictable and certain for all parties, allowing investors and communities to have confidence in a genuinely plan-led system.



- It would clearly define the rights and responsibilities of the citizen and would offer everyone a fair opportunity to shape their future.
- It would be capable of considering the nation as a whole and of making us all resilient to the challenges we face.
- It would offer a fair deal for the public and landowners, and development values would help to support the delivery of new places.
- It would be recognised for its dynamic and creative thinking, attracting people who want to be at the forefront of shaping change with communities.

How do we get there?

There are big problems with our current planning system, but equally there is a major opportunity to reimagine the system so that it can help make people's lives better by driving effective change. This requires cross-sector political consensus in which all parties can see clear benefits. Not everyone will be happy with a system that delivers greater certainty – particularly not those who have done well in land speculation. Greater certainty will inevitably result in lower and fewer speculative profits for land-traders. But for those in construction, infrastructure delivery and the provision of the multiple market services that go along with the creation or renewal of communities, there are major benefits. Certainty provides greater hope of investment and innovation in the supply chain and in new construction techniques and design skills – productive activities that can help strengthen our economy.

We are convinced of the need for change – and for change of a lasting and fundamental nature. Implementation of the recommendations set out in this Report would deliver this change. Given the reality of our politics, there is also a need for a route map to take us from the current problems to a lasting settlement. At this point, many reviews default into recommending a Royal Commission or further research, but, instead, this Review advocates a shorter-term 'plan B' which could make things better now and provide a pathway to that lasting settlement. This plan recognises that some change can be effected now by using secondary

legislation and changes in policy which would require minimal parliamentary time. We recommend seven immediate actions which could begin our journey to an effective and fair planning system:

- End the commitment to extend permitted development to the demolition and rebuilding of office and commercial buildings, and return powers over permitted development to local government. This requires minor changes to secondary legislation and should be implemented urgently.
- Ensure that the forthcoming Environment Bill and the principles it contains are applied to the planning system.
- Provide a new remit for the National Infrastructure Commission to prepare a national planning framework for England.
- To support the government's ambition, set out in the Civil Society Strategy, to ensure that citizens are able to influence local decisions, the Ministry of Housing, Communities and Local Government should publish comprehensive new planning guidance on how genuine public participation can be promoted in all parts of the planning process. The last guidance was revoked in 2012.
- Organisations working in the planning and built environment sector should draw up a cross-sector compact on the values and direction of future reform of the English planning system.
- The government should set out in policy clear direction on the returns that landowners can expect when calculating viability assessments.
- The professional bodies that collectively have a hand in planning and the built environment should urgently review their ethical codes to embed the principle of 'Do no harm'.

While these measures are a small first step, they would allow government to signal its intent to deliver a fair, effective and democratic planning system and would allow the wider sector to support that ambition. Building such a consensus for change would be a very significant first step.

One point is worth emphasising: we are not advocating a return to the past. Nor are we advocating the top-down imposition of change on communities. Instead

we are proposing practical solutions to the very real and pressing problems confronting England and the wider UK. If we want to solve the deep-rooted inequalities within England and the wider UK, an integrated and logical approach is required – one which gives confidence and empowers local communities by providing a clearer context for local decision-making and which gives business confidence in the longer-term future for investment in all communities, from rural areas to our great cities.

Why planning matters

This Report has highlighted a planning system which has been subject to a bewildering scale of change. There is currently no sign of an end point to these changes, which are not always well understood by the wider public. From the conversion of buildings on industrial estates to low-quality homes, to the lack of national co-ordination for infrastructure and housing delivery, England is now increasingly ‘un-planned’. And that matters for our collective future, given the scale of the challenges in matters such as housing and climate change that lie ahead.

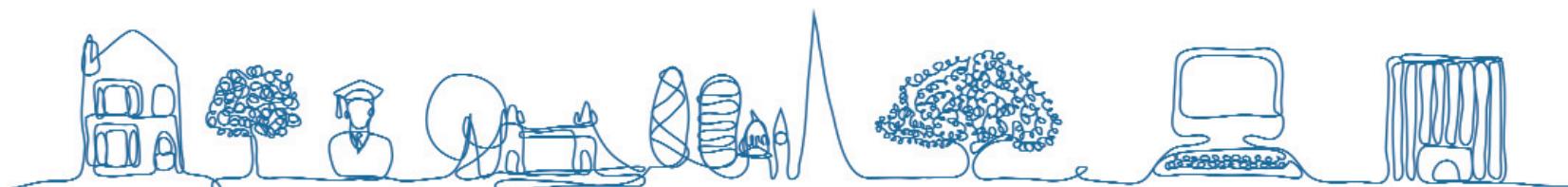
There is a choice confronting the nation between further incremental ‘tinkering’ with the system, and reimagining planning in a way that delivers for the long-term welfare of future generations. Such a choice should be the subject of national debate, because the

future of our communities depends on effective and fair organisation. It is no overstatement to say that the simple choice between planning and non-planning, between chaos and fairness, is a defining test of our democracy.

The remaking of English planning is a daunting task, but it is possible to begin to populate this complex landscape of legal structures and institutions with some basic ideas about what planning should do and how it can act most effectively in securing a sustainable future. The recommendations set out in this Final Report are the first steps in that process. There is a tantalising prospect of simplifying planning regulation while increasing the system’s effectiveness. However, the task of bringing logical structures and principles to a chaotic system is not going to be politically compelling unless there is a clear demonstration of the benefits that would be brought to the lives of the diverse communities of England as a result.

The defining challenge for the future of planning is not to be found in any technical fix, but in the degree to which there is consensus in favour of an effective and democratic system to manage the future development of our communities and our nation. The institutional and technical changes are possible and achievable.

The question is whether we have the will and the foresight to secure the health and wellbeing of all our communities now and for the future.



Annex 1

Raynsford Review terms of reference

To examine the performance of the English planning system in relation to the key challenges facing the nation. To identify key areas of under-performance and to offer positive recommendations for reform. Specifically, the Review will:

- Examine the objectives of the planning system in relation to delivering sustainable development in the long-term public interest and reflect on how sustainable development should be manifest in key objectives in local and national policy. In particular, it will examine how the application of the National Planning Policy Framework has affected the outcomes of the planning system and how effective changes can be made.
- Examine the extent of the application of the land use planning system and the case for a comprehensive long-term approach. In essence this reflects both the original question asked in 1947 and found in the Royal Commission on Environmental Pollution report of 2002 as to whether land use control should apply to all land uses. This is particularly relevant for flood risk. It will also consider the widespread extension of permitted development rights, which have significantly reduced the scope of planning.
- Examine the structures of the planning system in relation to its application to the national, sub-regional, local and neighbourhood scales. This theme picks up the devolution and national planning debate, as well the case for a role for the New Towns legislation. The problem involves defining a narrative and an effective relationship between the spatial scales.
- Consider the appropriate governance structures of the system in relation to democratic accountability and citizens' rights.
- Consider how the substantial values which arise from land use regulation can be effectively captured and distributed in the public interest. This is the key betterment question and relates to Section 106 agreements and the Community Infrastructure Levy and to the wider question of land value capture.
- Consider the key delivery issues which can aid effective implementation. This theme will include how the planning service can be resourced, and the appropriate skills and expertise of planners and the implications for planning education.



Annex 2

Key policy and legislative changes to the post-war planning system

The following list records of some of the key milestones in the reform of planning, from the mid-1960s onwards.

| | | | |
|----------------|---|-------------|--|
| 1967 | The Land Commission Act reintroduces betterment taxation, but at a lower rate than set following the 1947 Act. | 1972 | The Development and Compensation White Paper signals the end of 'betterment' taxation. |
| 1968 | The Town and Country Planning Act introduces Structure Plans and Local Plans. | 1974 | The Land White Paper heralds the reintroduction of comprehensive betterment taxation through the Community Land Tax Act 1976. |
| 1964-70 | Voluntary regional planning co-operation is established, most notably through bodies such as SERPLAN (the London and South East Regional Planning Conference). | 1977 | The Policy for the Inner Cities White Paper marks the end of consideration for investment in New Towns, with a new focus on city regeneration. |
| 1969 | The Skeffington Report on public participation reflects the need for genuine community participation in decision-making and is marked by the foundation of a series of initiatives such as Planning Aid and tools such as Planning for Real to directly empower citizens in the planning process. This period also saw the formalisation of the right to be heard and the beginning of a campaign for third-party rights of appeal in planning. | 1980 | The Community Land Tax is abolished. |
| 1970 | The final New Town is designated, in Central Lancashire. | 1981 | The New Towns Act consolidates the legislation. HM Treasury forces early repayment of New Town Development Corporation loans and winds up the New Towns programme, leaving the New Towns without an asset base for renewal or, in some cases, a means to finish the development of the town. |
| 1972 | The Local Government Act splits the responsibilities for planning between counties and districts, and updates the powers to secure planning gain contributions, which begin to be widely used to try to recoup betterment. | 1985 | The Lifting the Burden White Paper makes the case for the major deregulation of planning and building regulations. In practice, this had little impact on the structure of planning, but reinforced the presumption in favour of development and, by 1987/88, had resulted in record numbers of successful planning appeals. |
| | | 1985 | The Budget announces the abolition of all development taxation. |



| | | |
|-------------|--|---|
| 1986 | Non-statutory Regional Planning Guidance (RPG) is introduced and 13 RPGs are issued up to 1996. The guidance is designed to inform Structure Plans but has a weak status in decision-making and has very limited public engagement. | system with a strategic element which survives until the end of regional planning in 2011. How London engages with the rest of the South East region remains a key issue. |
| 1987 | The implementation of the Environmental Impact Assessment (EIA) Directive marks the beginning of a transformative role for EU legal requirements and, more than any other domestic law, re-shapes planning practice on key environmental and social issues. | A White Paper on the reform of planning follows a number of departmental papers focusing principally on the slow pace of plan coverage and concerns over housing numbers. |
| 1990 | The Town and Country Planning Act proposes modest changes to the responsibilities on plan-making, but, during the passage of the Bill, the government accepts an amendment reinforcing the status of a development plan in decisions and framing the 'plan-led' system, which survived until 2012. | 2004 The Planning and Compulsory Purchase Act abolishes Structure Plans and introduces statutory regional plans (Regional Spatial Strategies) and Local Development Frameworks. The Act retains the split of planning functions in two-tier areas, with the intention of regional plans becoming accountable through Regional Assemblies, but this part of the package subsequently fails. Statutory regional planning had an effective life of five years. |
| 1991 | The Planning and Compensation Act, which remains the last consolidating Act, draws together the then current regulations on plan-making, etc. This Act has since been amended multiple times. | 2008 The Planning Act introduces the Nationally Significant Infrastructure Projects regime and the Infrastructure Planning Commission. The Commission was operational for three years before being abolished in 2011. |
| 1992 | Planning Policy Statement 1 (PPS1) introduces 'sustainable development' as the key objective of the planning system. | 2010 The publication of <i>Open Source Planning</i> by the Conservative Party signals a major shift towards deregulation, the abolition of Regional Spatial Strategies, and the introduction of Neighbourhood Plans. |
| 1997 | A re-draft of PPS1 removes the language of the presumption in favour of development and replaces it with a reinforcement of the presumption in favour of the plan. | 2010 There is widespread abolition of bodies supporting the planning endeavour in England, such as the Sustainable Development Commission, the Royal Commission on Environmental Pollution, and the National Housing and Planning Advice Unit. |
| 1998 | The UK signs the Aarhus Convention, creating obligations on access to information, participation, and access to justice. The Aarhus Convention remains a significant blueprint for citizens' rights in planning decision-making. | 2011 The Localism Act signals the formal abolition of Regional Spatial Strategies and reintroduces the Local Plan format. The Act creates Neighbourhood Plans as a formal part of the |
| 1999 | The Greater London Authority Act establishes powers for London, shaping a unique planning | |

| | | | |
|-------------|-------------|--|--|
| | | development framework. Other secondary legislation ‘temporarily’ relaxes permitted development rights on the conversion of rural buildings and commercial and office uses to residential use, with a ‘light-touch’ prior approval process. | |
| 2012 | | Planning Policy Statements and all other technical guidance are repealed and replaced by the National Planning Policy Framework (NPPF). The NPPF reintroduces a presumption in favour of development which is framed in unprecedented language to make the proving of harm that might result from a development much more onerous. The NPPF viability test also effectively empowers the developer of land to strike down any policy which compromised their development profit. | |
| 2016 | | The Housing and Planning Act introduces ‘permission in principle’, brownfield registers, and further secondary legislation confirming the permanent relaxation of permitted development rights. | |
| 2017 | | The Neighbourhood Planning Act strengthens the weight of Neighbourhood Plans, introduces changes to compulsory purchase, and enables locally led New Town Development Corporations. | |
| 2017 | | The Housing White Paper introduces a new legal requirement to have a joint, high-level strategic plan based on the limited issues set out in paragraph 156 of the 2012 NPPF. There is no requirement for any other form of Local Plan but there is discretion to prepare Local Plans and for Neighbourhood Plans. | |
| | 2017 | The Budget Statement announces further deregulation of permitted development rights to allow commercial buildings to be demolished and rebuilt as housing without the need for planning permission. | |
| | 2018 | Parliament approved the secondary legislation necessary for the implementation of locally led New Town Development Corporations. | |
| | 2018 | The draft replacement NPPF, published for public consultation, clarifies the new development plan framework by articulating the legal requirements on local planning authorities to set out strategic priorities, and the consequent need for a strategic plan. It also proposes that other more detailed Local Plans would now be discretionary. | |
| | 2018 | The Letwin Review Interim Report suggests further significant changes to the Compensation Code and the role of public authorities. | |
| | 2018 | The final version of the revised NPPF is vaguer about the shape of the development plan system, but it is now clear that there is no legal requirement to set out ‘non-strategic’ Local Plan policy and no policy requirement to do so. Local planning authorities are free to choose if and how they adopt such policy, including whether this is left to neighbourhood planning. | |

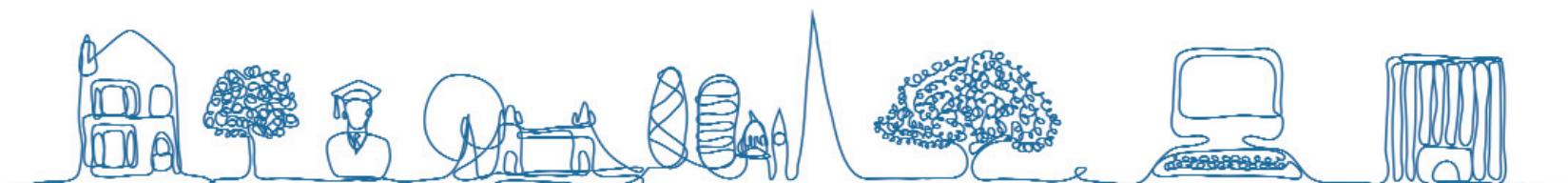


Annex 3

Submissions received by the Review

Two-hundred submissions were received following the original call for evidence to the Raynsford Review. These were a mixture of personal, independent responses from individuals who wished to remain anonymous and submissions on behalf of public, private and third-sector organisations wanting to have a say and state their position and opinions. Organisations varied in size and capacity and came from all over England.

| | |
|---|---|
| 11.04 Architects | Campaign for National Parks |
| Action to Reduce and Recycle Our Waste | Canal & River Trust |
| Addleshaw Goddard LLP (on behalf of NATS (En Route) plc) | Cause Campaign |
| Airport Operators Association | Central Association of Agricultural Valuers (CAAV) |
| Ambos | Central Bedfordshire Council |
| Arazu Consulting Ltd | Centre for Ageing Better |
| Arq Consulting Ltd | Chartered Institute for Archaeologists |
| Association of Consultant Architects | Chartered Institute of Ecology and Environmental Management |
| Association of Convenience Stores | Cheshire East Council |
| Association of Directors for Environment, Economy, Planning and Transport (ADEPT) | Chudleigh Town Council |
| Association of Directors of Public Health (ADPH) | City of Wolverhampton Council |
| Association of Local Government Ecologists | CLES |
| Association of Police and Crime Commissioners | Community Futures Prospectus |
| Barbara Weiss Architects Ltd | Community Voice on Planning |
| Bat Conservation Trust | Cornwall Council |
| Berrys | Countryside Properties |
| Birmingham City Council | CPRE |
| Birmingham City University, School of Engineering and Built Environment | CPRE Cheshire |
| Blake Morgan LLP | CPRE Dorset |
| BPP Consulting LLP | CPRE Hampshire |
| Brandwells Construction Co. Ltd | CPRE Hertfordshire |
| Bristol City Council | CPRE Lancashire |
| Bristol Health Partners | CPRE Oxfordshire |
| British Chambers of Commerce | CPRE South Yorkshire |
| British Property Federation | CPRE Sussex |
| Business In Licensing | CPRE Warwickshire |
| C2O Future Planners | CPRE West Midlands Regional Committee |
| | Dalia Lichfield Dynamic Planning |
| | Design Council |

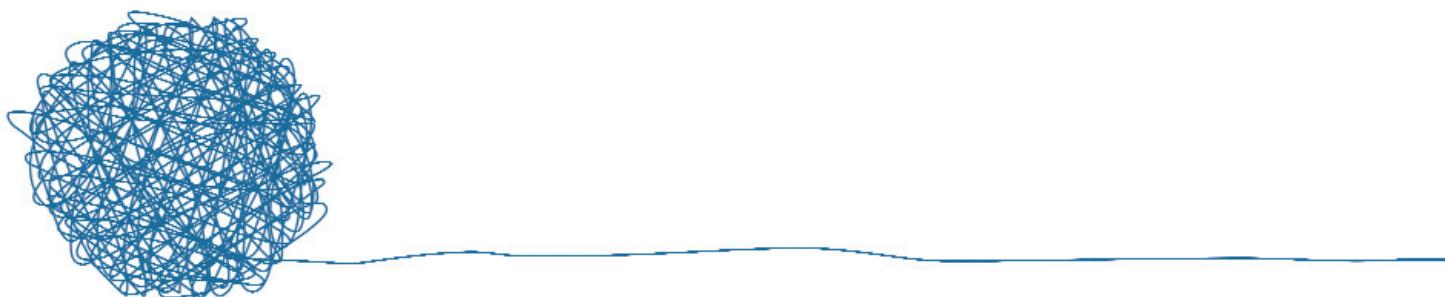


Dundry and Hartcliffe Wildlife Conservation Group
East Herts District Council
Easton Planning
Eccleston Community Residents Association
Edward Ware Homes Ltd
Emsworth Residents' Association
Environmental Services Association
Essex Lead Local Flood Authority (LLFA)
Exeter Green Party
Faculty of Public Health
Federation of Master Builders
Floodline Developments
Francis Taylor Building
Friends of Stank Hall
Friends of the Lake
Future Cities Catapult
Gatwick Airport Limtied
Gilian Macinnes Associates
Government Legal Service
Greater London Authority
Green Party, Norwich City Council
Harrogate Borough Council & Craven District Council
Hastoe Housing Association
Havant Borough Tree Wardens
Hawarden Aerodrome
Heathrow Airport Ltd
Highbury Group on Housing Delivery
Historic Building and Conservation Committee
Historic England
House of Lords
House of Lords Licensing Committee
Hyas
Inland Waterways Association
Institute of Historic Building Conservation
Institute of Licensing
L&Q
L&Q New Homes, Gateway 120 Limited and Cirrus
 Land Limited
Ladbroke Association
Landscape Institute
Land Use Consultants
Lee Forum
Leeds City Council
Liverpool Airport
Local Government Association
Locality

London and Middlesex Archaeological Society
London Planning & Development Forum
London YIMBY & Priced Out
Manchester Airport Group
Marches Planning & Property Consultancy
Matter Architecture
Milton Keynes Council
Mineral Products Association
MK Conservatives
Music Venue Trust
National Association of Local Councils
National Police Chiefs' Council
Natural England
Need Not Greed Oxon
Newcastle University
North Devon Council
North East Lincolnshire Council
Northumbria University
Oxford Brookes University
Partnership for Urban South Hampshire
Place Alliance
Place Studio Limited
Planning Aid Wales
Planning Portal
Public Health England
Rescue (The British Archaeological Trust)
Residents Against the Florida Farm Developments
RIBA (Royal Institute of British Architects)
Rickinghall Parish Church
RTPI (Royal Town Planning Institute)
Rural Coalition
Rural Solutions Ltd
Rural Strategy
Rushmoor Borough Council
Sheffield City Council
Sigma Planning Services
Society of Local Council Clerks
Somerset County Council
South Bedfordshire Friends of the Earth
South Downs National Park Authority
Stephen Tapper (Planning) Ltd
Stockport Metropolitan Borough Council
Swindon Borough Council
Teignbridge District Council
The Blackheath Society
The Chelsea Society

The Consultation Institute, Planning Working Group
The Country Land & Development Forum
The Edge
The Glass-House, Community Led Design
The Harbord Road Area Residents' Association
The Heritage Alliance
The Housing Forum
The Land Trust
The Licensing Expert Group
The Royal Society for the Protection of Birds
The Society for Poole – Planning Sub-Group
The Soho Society
The Urban Design Group
The URBED Trust
The Wirral Society, CPRE Cheshire
Torridge District Council
Trees and Design Action Group
Truro City Council
UK Environmental Law Association (Trustee)
UCL
UCL Bartlett School of Planning
UK2070 Commission
University of Liverpool
University of Reading
University of the West of England
University of Westminster
Upper Dearn Valley Environmental Trust
URBAN R+D/KehoeWalsh Architects
Urban Vision
Voyce Pullin
Walsham Parish Council (Clerk)
Waymarking
West Ealing Centre Neighbourhood Forum
WHO Collaborating Centre for Healthy Centre Environments (University of Bath, Newcastle University) Wildlife and Countryside Link
Wiltshire Community Land Trust
Woodland Trust
Wycombe District Council
Young People's Party





**Planning 2020 – Final Report of the Raynsford Review of Planning in England.
Executive Summary**

November 2018

Published by the TCPA



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