

**April 2019**



## **Why our planning system must be made fit for purpose**

Good planning is essential to protect the environment from development pressures. But recent reforms threaten to compromise the ability of the planning system as a whole to deliver in the public interest.

At a time when councils around the country are adopting the language of the climate emergency and there are huge development pressures on the environment, a good planning system matters more than ever.

Yet recent reforms threaten to undermine the gains made, such as the introduction of neighbourhood planning, and compromise the ability of the planning system as a whole to deliver in the public interest.

Friends of the Earth has long campaigned for a fair and transparent planning system that delivers sustainable development and equitable outcomes.

In this article, Kate Gordon, senior planner at Friends of the Earth shows how the current planning system is failing to do so and suggests solutions to redress the balance between land-use demands, including the delivery of new homes, and sustainable development objectives.

## **Why planning matters**

The planning system provides the basis for decisions on the amount, location and form of new development. Where, how and what we build have significant implications for our environment.

Planning is – or should be – a key mechanism for delivering sustainable development. How we plan matters too.

Planning is a combination of advocacy, negotiation and regulation. But even the best plans and policies cannot achieve good outcomes if developers, councils and other bodies lack the necessary wherewithal to implement them and the wider planning, regulatory and policy framework is not conducive.

## **Plan-led system**

In England and Wales we have what is known as a ‘plan-led’ system.<sup>1</sup> This means the local plan and other planning policies, such as those set out in neighbourhood plans, provide the starting point for planning decisions. In theory, this provides for a high degree of local democratic accountability and influence.

One welcome change has been the introduction of neighbourhood planning<sup>2</sup> enabling communities to draw up their own plans, which are then used to guide decisions on new development alongside the local plan.

However, damage caused by wider reforms far outweighs the benefits of neighbourhood planning and some question whether the system is fit for purpose.<sup>3</sup>

### **Strategic planning vacuum**

As predicted almost a decade ago,<sup>4</sup> we've been left with a strategic planning vacuum, following the abolition of regional planning<sup>5</sup> and prior to that, county structure plans.

Since it's impossible to plan with no strategic co-ordination, an array of responses has emerged, such as city-region plans, joint plans, or the work of the National Infrastructure Commission. However, the plethora of different types of strategic plan (some statutory, some not) and uneven geographic coverage (not all places have a strategic plan) is confusing.

### **Deregulation and permitted development undermine local accountability**

The deregulatory nature of reforms, such as granting permitted development (PD) rights to cover more substantial forms of development,<sup>6</sup> together with the introduction of a so-called "presumption in favour of sustainable development,"<sup>7</sup> directly undermine local accountability and limit councils' ability to manage development on behalf of communities.

PD allows developers to sidestep the local plan and override democratically agreed planning policies.<sup>8</sup> Policies designed to deliver development in the wider public interest are ignored to the benefit of individual applicants.

A raft of evidence shows how granting PD rights to changes of use, such as allowing offices to convert to homes with no need to apply for planning permission, has led to poor outcomes.<sup>9</sup> Examples include sub-standard housing,<sup>10</sup> housing in unsuitable locations such as the middle of an industrial estate,<sup>11</sup> failure to provide affordable housing,<sup>12</sup> and loss of offices in town centres.<sup>13</sup>

The government recently extended PD rights further, to allow changes of use from retail to housing, and upwards extensions. Both these measures could make it harder for councils and communities to proactively plan for their high streets and town centres.<sup>14</sup>

### **Planning for (un)sustainable development?**

The ability of the planning system to deliver sustainable development is inextricably linked to the ability of planning authorities to plan for a balance of land uses, tailor their plans to their circumstances and use their plans to decide whether development proposals go ahead or not.

However, the planning system's overriding objective today seems to be delivering new homes at the cost of almost everything else. Wider considerations, such as the environment, the quality of what gets built and who benefits, are all too easily brushed aside in the drive to meet targets.

### **National Planning Policy Framework: a gap between aspiration and reality**

A major drawback of our present planning system is a failure to embed sustainable development principles throughout all decisions, plans and proposals.<sup>15</sup>

The National Planning Policy Framework (NPPF)

“The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.” (paragraph 148)<sup>16</sup>

Unfortunately, there's a gap between aspiration and what happens in practice – a situation not helped by the approach to sustainable development set out in the revised NPPF.

I.....;;This is weak compared with the original 2012 version, which cited the Bruntland definition and made clear the aim should be to integrate economic, environmental and social objectives, not trade them off. Most United Nations Sustainable Development Goals<sup>17</sup> are directly relevant to planning, yet national planning policy largely ignores them.

The revised NPPF (February 2019) takes a silo approach to sustainable development with little apparent attempt made to integrate the different aspects.

### **Lack of planning principles and tools to support a low-carbon future**

As a result of the revised NPPF, welcome aspirations like supporting a transition to a low-carbon future fail to be translated into clear planning principles. Guidelines are omitted where needed most or an approach advocated that risks locking us into carbon dependency. The NPPF chapter on the economy omits to mention a single planning measure needed to deliver a low-carbon, environmentally sustainable economy.

Apart from a passing reference in a footnote to the Clean Growth Strategy, there are no pointers on how to plan for a sustainable economy. On renewables the NPPF is encouraging, with the exception of onshore wind energy<sup>18</sup> .

To move beyond aspiration requires measures to facilitate and prioritise renewables and zero-carbon development throughout the planning process at all levels. National policy does not offer these measures.

Concerns regarding the ability of the planning system to deliver sustainable outcomes are widely shared. The Raynsford Review of planning<sup>19</sup> reports “There was strong feedback from public sector planners that sustainable development was no longer an operational principle of planning” (p44) and that the 2018 NPPF definition of sustainable development “leaves out core internationally agreed principles” and “Important ideas such as the precautionary principle” (p43).

Planning for sustainable development requires as much consideration to be given to the location of development as to what form it takes. This means achieving high environmental standards in new builds and siting developments where facilities are close by and can be reached by public transport, walking and cycling.

Yet we still allow development in unsustainable locations. Research commissioned by the Royal Town Planning Institute found that less than half of new housing built between 2012 and 2017 was within 2 km of a railway station.<sup>20</sup>

### **UK homes unfit for the future**

The Committee on Climate Change has found UK homes to be unfit for the future, commenting that policies to support low-carbon measures have been weakened or withdrawn, including Zero Carbon Homes.

It notes that “Local authorities do not have sufficient resources to address these concerns and there is not enough use of local and urban planning to make progress on climate change mitigation or adaptation. There have been some positive clarifications to the National Planning Policy Framework in England to address overheating and flooding, but the revisions have removed the requirement for local authorities to give active support to energy efficiency improvements to existing buildings, and have failed to clarify how far local and regional authorities are permitted to go in setting their own tighter standards for new-build homes Carbon Homes and the Code for Sustainable Homes.”<sup>21</sup>

The Planning Act 2008<sup>22</sup> introduced a duty on councils to ensure that their local plans include policies that address climate mitigation and adaptation. Planning authorities are, however, limited as to how far they can go towards setting the high environmental standards required to deliver resilient, zero-carbon developments. While they can specify standards better than Building Regulations,<sup>23</sup> policies they adopt must be “viable” and “deliverable”. Developers will object.

Yet until such time as higher standards are enshrined in national policy and legislation, planning authorities should be free to set standards they believe necessary to ensure development is sustainable.

Such an approach would encourage applications from developers who are able and willing to rise to the challenge,<sup>24</sup> deter those who are not, and thereby help create a level playing field.

Similarly, affordable housing provision should be mandatory and developers not allowed to abnegate responsibility because they’ve paid too much for the land in the first place.

## **What are the solutions?**

Among changes to the planning system, we need to do the following:

- As recommended by the Raynsford Review,<sup>25</sup> there should be a legal duty to plan for sustainable development when drawing up development plans and deciding planning proposals. This should be underpinned by a robust definition of sustainable development, along the lines adopted by the Brundtland Commission,

and translation of United Nations Sustainable Development Goals into national planning policy and guidance.

- Reinstating balance in the planning system, so that it gives clear recognition to managing land-use change in the public interest. Quality, sustainability and the needs and challenges of existing places and communities must lie at the heart of a reformed, repurposed system.
- Restore planning powers to local authorities. A revised NPPF should set out a presumption that “local decisions are taken locally and that local powers should only be withdrawn in clearly defined and transparent circumstances.”<sup>26</sup>
- Scale back PD rights so these only apply to minor development, such as building a garden shed or erecting a solar panel, with the exception of essential works carried out by utilities and statutory undertakers. This would restore the ability of local councils and communities to manage development for their area in line with their aspirations.
- Require planning authorities to plan for zero-carbon development and developers to both deliver it and work with communities, energy providers and utility companies to deliver sustainable energy infrastructure.
- Require all new development to incorporate renewable energy technologies, such as solar panels on every rooftop, and all new development to achieve Passivhaus <sup>27</sup> or BREEAM<sup>28</sup> standards or equivalent.
- Ban any further fossil fuel extraction unless the Committee on Climate Change’s three tests are demonstrably met and all other social and environmental effects are acceptable.
- Reinstating a strategic / regional tier of planning with consistent, transparent governance arrangements.
- Continue support for neighbourhood and community-led planning with strengthened governance arrangements in places without a parish or town council.
- A statutory duty that neighbourhood plans must include policies that deliver climate change adaptation and mitigation measures for their neighbourhood area.
- Stronger protection for nature, including wildlife habitats, accessible green space and agricultural land, and greater recognition of the wider value of undeveloped land.
- Amend the approach to planning for housing to give greater recognition to need, as opposed to demand, and to the role of planning in addressing interregional imbalance.



## **The government must strengthen the planning system, not undermine it**

In March this year, the Communities Secretary indicated that the government intends to publish an “accelerated planning green paper”<sup>29</sup> this autumn.

Proposed reforms are expected to include measures to speed up planning decisions and the rate at which new homes are delivered. A new Future Homes Standard for low-carbon housing is to be consulted on.

It’s essential that we plan and build in the right way, so further measures to deregulate, given the evidence of the harm this has caused, should be resisted. On the other hand, the green paper provides an opportunity for the government to present an ambitious programme of reforms designed to strengthen and reinvigorate our planning system, not undermine it.

Planning is critical to the delivery of a wide range of public interest outcomes: health, wellbeing, prosperity and high-level objectives that support these, such as becoming zero carbon or delivering on the 25 Year Environment Plan.

To achieve these objectives and outcomes, government reforms must empower planning authorities and the communities they serve, so they can plan for and manage development for their area effectively, and place obligations on developers to deliver.

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- 1.** More recently, a plan-led system has been introduced in Northern Ireland, replacing what was previously a development-led system.
  - 2.** The Localism Act 2011 introduced powers for communities to prepare neighbourhood plans.
  - 3.** This was the conclusion reached by the Raynsford Review of Planning, led by former minister Nick Raynsford. While the report acknowledges “there are positive examples of planning practice to celebrate” it concludes the system taken as a whole is not fit for purpose and calls for a radical rethink on how we plan. Planning 2020 – Final Report of the Raynsford Review of Planning in England, 2018, p73. <https://www.tcpa.org.uk/raynsford-review>

**4.** “The intended abolition of regional spatial planning strategies leaves a vacuum at the heart of the English planning system which could have profound social, economic and environmental consequences set to last for many years” concluded the Commons Communities and Local Government Committee following its inquiry. MPs warn that England needs more than a vacuum for strategic planning, Commons Select Committee News, 2011.

<https://www.parliament.uk/business/committees/committees-a-z/commons-select/communities-and-local-government-committee/news/report---rss---pn-/>

**5.** Formally revoked under s79(6) of the Local Democracy Economic Development and Construction Act 2009, 6 July 2010 and replaced by ‘A Duty to Co-operate’ with mixed results. Some authorities have been unable or unwilling to co-operate. Under the revised NPPF, authorities are required to prepare statements of common ground to demonstrate they are meeting the Duty to Co-operate regarding strategic, cross-boundary matters.

**6.** Reforms include allowing larger business and residential extensions (from 2012) and changes of use for example, from offices to residential (from 2015). At the time of writing we await the government’s decision on whether shale gas exploration should be made permitted development and production should be determined under the Nationally Significant Infrastructure Regime. This follows consultation which ran last year from July to October.

**7.** In practice this works more like a presumption in favour of development in situations where a planning authority fails a “housing delivery test” as set out in the NPPF, because development must be approved, unless there are compelling reasons for refusal.

**8.** There’s widespread concern regarding the impact this approach is having on our plan-led system. LGA responds to Government extension to permitted development rules, Local Government Association, 2019. <https://www.local.gov.uk/about/news/lga-responds-government-extension-permitted-development-rules>

**9.** Lifting the curtain on PDR, Town and Country Planning Association, 2019.

<https://www.tcpa.org.uk/blog/lifting-the-curtain-on-pdr>

**10.** RIBA condemns plan to extend permitted development, RIBA, 2019,

<https://www.architecture.com/knowledge-and-resources/knowledge-landing-page/riba-condemns-plan-to-extend-permitted-development>.

‘Slums of the future’? UK office-to-homes policy sparks fears, Business Telegraph, 2018, <https://www.businesstelegraph.co.uk/slums-of-the-future-uk-office-to-homes-policy-sparks-fears/>.

Housing for a fairer society: The role of councils in ensuring stronger societies, TCPA/Association of Public Service Excellence, 2019, <https://www.apse.org.uk/apse/index.cfm/research/current-research-programme/housing-for-a-fairer-society-the-role-of-councils-in-ensuring-stronger-societies/>.

Permitted development office-to-residential: developer wins right to build windowless studios in Watford warehouse under relaxed planning rules, Homes and Property, 2019,

<https://www.homesandproperty.co.uk/property-news/permitted-development-officetoresidential-developer-wins-right-to-build-windowless-studios-in-a132061.html>

**11.** Assessing the impacts of extending permitted development rights to office-to-residential change of use in England , RICS, 2018.

<https://www.rics.org/globalassets/rics-website/media/knowledge/research/research-reports/assessing-the-impacts-of-extending-permitted-development-rights-to-off...>

**12.** An open letter on Permitted Development Rights, Shelter/Local Government Association, 2019. <https://www.local.gov.uk/open-letter-permitted-development-rights>

**13.** See ref. 11

**14.** This was the conclusion reached by a recent commons committee report into the future of our High Streets. In its evidence to the committee, the Local Government Association noted the following impacts resulting from the introduction of permitted development rights: “Reduction in availability of commercial premises in town centres and no contributions towards infrastructure, housing that does not meet local need, housing in unsustainable locations, and reduced levels of affordable housing. Permitted development rights undermine communities’ trust in the planning system and can put communities off new development. This also has the effect of depopulating town centres during the day, which impacts on retail and service sector businesses.” High streets and town centres in 2030: Eleventh Report of Session 2017–19, Housing, Communities and Local Government Committee, 2019.

<https://publications.parliament.uk/pa/cm201719/cmselect/cmcomloc/1010/full-report.html>

**15.** There’s a legal requirement for planning authorities to prepare plans with the objective of contributing to the achievement of sustainable development. However, this requirement does not apply to taking decisions. Section 39(2), Planning and Compulsory Purchase Act 2004.

**16.** National Planning Policy Framework, Ministry of Housing, Communities and Local Government, Feb 2019.

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/810197/N](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/810197/N)

**17.** Sustainable Development Goals, United Nations.

<https://sustainabledevelopment.un.org/?menu=1300>

**18.** Onshore wind: is its delivery being hampered by a lack of identified areas in Local Plans?, Friends of the Earth, 2019. <https://policy.friendsoftheearth.uk/reports/onshore-wind-its-delivery-being-hampered-lack-identified-areas-local-plans>

**19.** The Raynsford Review examined the effectiveness of the English planning system, including its ability to deliver sustainable development; governance structures, accountability and citizen’s rights; delivery issues; geographic scale and structure; and how to better capture land value. Planning 2020 – Final Report of the Raynsford Review of Planning in England, TCPA, 2019, sets out a number of recommendations. See ref. 3.

**20.** The study mapped and analysed the location of permissions for over 220,000 new homes in 12 fast-growing city-regions between 2012 and 2017, including Cambridge, Brighton, Leeds and Newcastle. Settlement patterns, urban form & sustainability, RTPi, 2018. [www.rtpi.org.uk/media/2822766/settlementpatternsurbanformsustainability.pdf](http://www.rtpi.org.uk/media/2822766/settlementpatternsurbanformsustainability.pdf) UK housing: Fit for the future?, Committee on Climate Change, 2019.

<https://www.theccc.org.uk/wp-content/uploads/2019/02/UK-housing-Fit-for-the-future-CCC-2019.pdf>

**21.** UK housing: Fit for the future?, Committee on Climate Change, 2019.

<https://www.theccc.org.uk/wp-content/uploads/2019/02/UK-housing-Fit-for-the-future-CCC-2019.pdf>

**22.** The government is in the process of enacting legislation to amend the 2050 greenhouse gas emissions reduction target in the Climate Change Act 2008 from at least 80% to at least 100%. Referred to as the “net zero” target, this would constitute a legally binding commitment to end the UK’s contribution to climate change. To deliver this will require radical revision of the NPPF. Law for net zero emissions begins passage through Parliament, Department for Business, Energy & Industrial Strategy, 2019.

<https://www.gov.uk/government/speeches/law-for-net-zero-emissions-begins-passage-through-parliament>

**23.** Responding to consultation feedback on the draft NPPF published in March 2018, where concerns were raised regarding the NPPF wording, the government said: “To clarify, the Framework does not prevent local authorities from using their existing powers under the Planning and Energy Act 2008 or other legislation where applicable to set higher ambition. In particular, local authorities are not restricted in their ability to require energy efficiency standards above Building Regulations.” See p48, Government response to the draft revised National Planning Policy Framework consultation, Ministry of Housing, Communities and Local Government, 2018.

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/728498/1](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/728498/1)

**24.** Examples include Bedzed: BedZED - the UK's first large-scale eco-village, Bioregional, <https://www.bioregional.com/projects-and-services/case-studies/bedzed-the-uks-first-large-scale-eco-village>. See also <https://www.zerobillshome.com/> and Property and construction industry calls on government to raise the bar on environmental standards, UK Green Building Council, 2018, <https://www.ukgbc.org/news/property-construction-industry-calls-government-raise-bar-environmental-standards/>

**25.** Planning 2020 – Final Report of the Raynsford Review of Planning in England, TCPA, 2018 – see ref. 3.

**26.** As recommended by the Raynsford Review – see ref. 3.

**27.** The Passivhaus Standard, Building Research Establishment.

<https://www.bregroup.com/a-z/the-passivhaus-standard/>

**28.** BREEAM: Helping create sustainable real estate around the world.

<https://www.bregroup.com/products/breem/>

**29.** Brokenshire hails package to build homes and opportunities in communities, James Brokenshire MP, Ministry of Housing, Communities & Local Government, 2019.

<https://www.gov.uk/government/news/brokenshire-hails-package-to-build-homes-and-opportunities-in-communities>