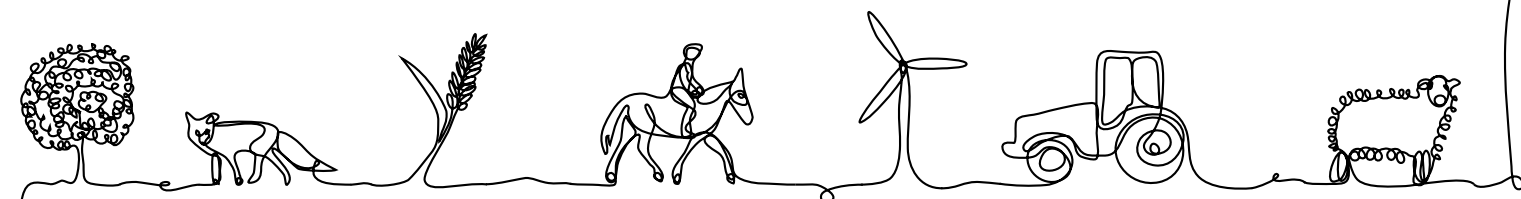
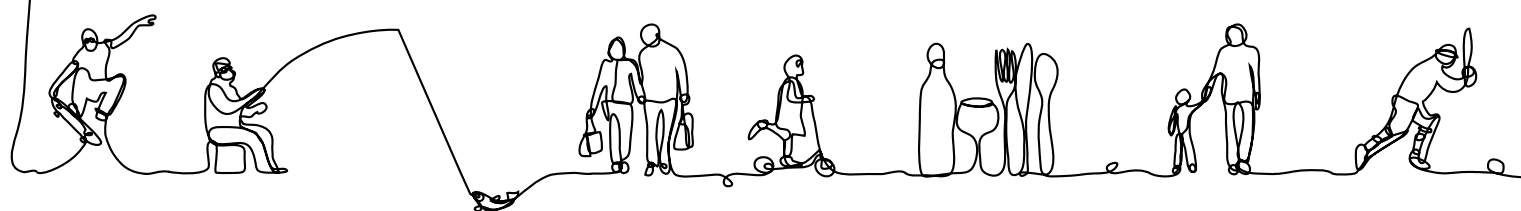
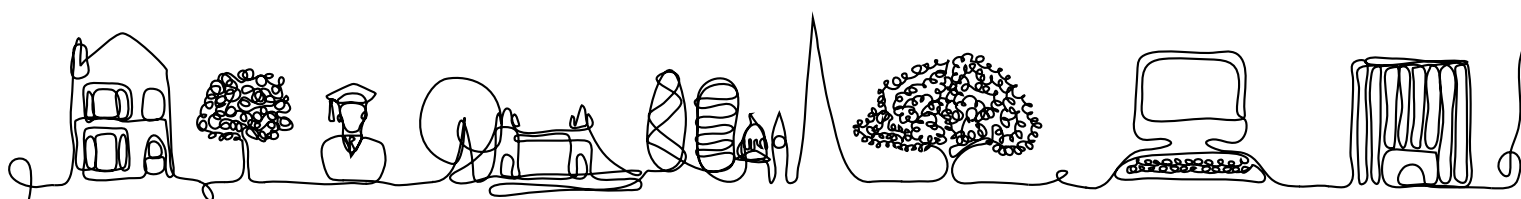


PLANNING 2020

INTERIM REPORT OF THE RAYNSFORD REVIEW
OF PLANNING IN ENGLAND



MAY 2018

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THE 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

INTERIM REPORT OF THE RAYNSFORD REVIEW OF PLANNING IN ENGLAND

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FOREWORD

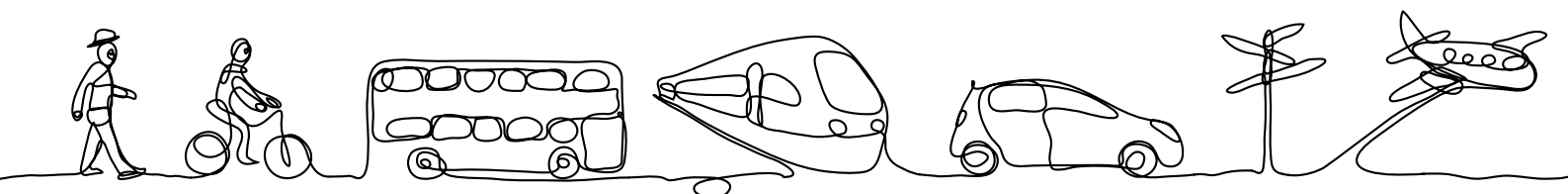
Planning has become a focus for bitter controversy. As a service which seeks to achieve the optimum outcome from often conflicting pressures, planning inevitably attracts differing points of view, and always has. But the ferocity of the divisions which characterise today's debates on planning, together with the scale of public disenchantment with its processes and outcomes, are, in my experience, unprecedented.

Few would dispute that, at its best, good planning has a vital and transformational role to play in shaping the places in which we live and the quality of life of our society. Britain was one of the first countries in the world to introduce a comprehensive, democratic system of place-making. That groundbreaking initiative has been in large part responsible for the preservation of our valued landscapes and heritage, the development of successful new settlements and business centres, and the regeneration of our older cities and towns. Inspired planning has made an enormous contribution to enhancing social mobility and improving the lives and health of millions of people.

It is also important to remember that much of the planning system as we know it was introduced because of public concern and anger at what had happened in the absence of proper planning – the squalid and insanitary slums and environmental pollution produced by rapid and unplanned industrialisation in the 19th century, and the urban sprawl and ribbon development that disfigured swathes of England in the 1930s.

But the achievements of planning are increasingly being challenged by powerful voices questioning its very purpose and arguing for the relaxation or repeal of the structures and powers that support the planning process in England. In their view, planning is at best slow, cumbersome and bureaucratic, an obstacle to getting things done, or at worst 'the enemy of enterprise' which needs to be dismantled. At the same time, the planning service is chronically underfunded, and the staff are often demoralised by the constraints within which they are working.

Dissatisfaction with the planning system and its processes explain what has been an almost constant state of flux over the past decade and a half, during which a plethora of 'reforms' have been introduced, often on the



back of assertion rather than evidence, and with little or no attempt to assess the impact of the previous changes before rushing into another. Ironically this process of near-continuous change has not improved the public's experience of planning. On the contrary, planning today is widely seen as more riddled with complexities and contradictions than at any time in the past three-quarters of a century. There can be few if any public services that more justify the adage 'We can't go on like this.'

This is the background to the decision of the Town and Country Planning Association (TCPA) to initiate a wide-ranging review of planning. This Review began its work in spring 2017, and has conducted an extensive programme of research and engagement which underpins this Interim Report. I am very grateful for the wealth of evidence and insights we have gained from the many people and organisations who have given generously of their time and expertise in contributing to this phase of our work. I am also indebted to the members of the Review Task Force, whose wise advice has been crucial to the content, shape and focus of this Interim Report. The Review has also depended on the sustained hard work and professionalism of the TCPA staff who have supported the Task Force, and in particular the TCPA Director of Policy, Hugh Ellis.

This Interim Report sets out our findings to date, including very extensive and troubling evidence of the scale of disenchantment with the planning system and its perceived failure to deliver the outcomes that the country needs and deserves. While, as the Interim Report demonstrates, there are sharp differences of opinion on how individual elements within the system are working and might be improved, there is widespread agreement that the current situation is not satisfactory, and the last thing that is needed is more short-term tinkering with the nuts and bolts. Instead, what is required is a deep

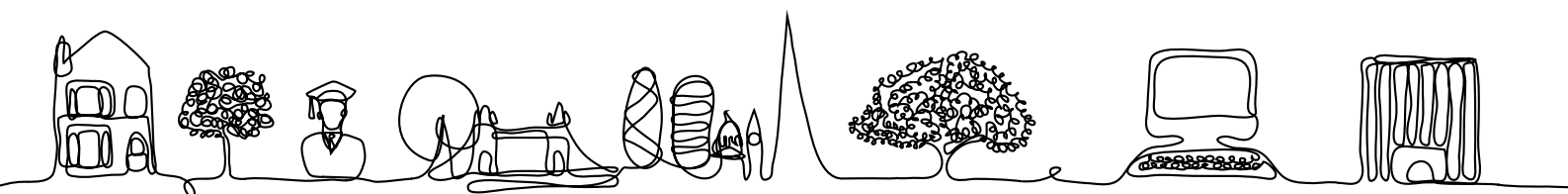
and hard look at the fundamentals – what should be the purpose of planning, how can it best be structured to deliver the outcomes that the country needs, and how can all parties be engaged most constructively in the process?

So rather than move directly to recommendations, we are publishing this Interim Report to prompt a further conversation around nine propositions. These propositions reflect the emerging findings from our work to date and could, in our view, provide the foundations for a robust and effective planning system fit for purpose in the third decade of the 21st century. We would welcome your comments and views on each of the propositions, together with any additional evidence that you would like to submit to the Review. Following this further round of consultation, it is our intention to reach firm conclusions and recommendations, which will be set out in our Final Report. Our aim is to publish this before the end of this year.

I hope you will find this Interim Report stimulating and challenging. Reshaping the planning system to provide an appropriate and effective way to enable us to plan better for the future is not an easy task. But it is vitally important to the future economic, social and environmental wellbeing of our country.

Rt Hon. Nick Raynsford

President of the TCPA and Chair of the Review



EXECUTIVE SUMMARY

How we organise and design our communities makes a profound difference to people's long-term health and wellbeing. In a wider sense, the basic co-ordination of railways, roads, power and water, alongside meeting the need for new housing, has multiple benefits to our economy and society. 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 does not deliver for people. This is manifest in everything from the degree of meaningful community engagement in planning to the overall quality and affordability of new development and wider strategic problems such as the stark inequalities found today between the regions of England.

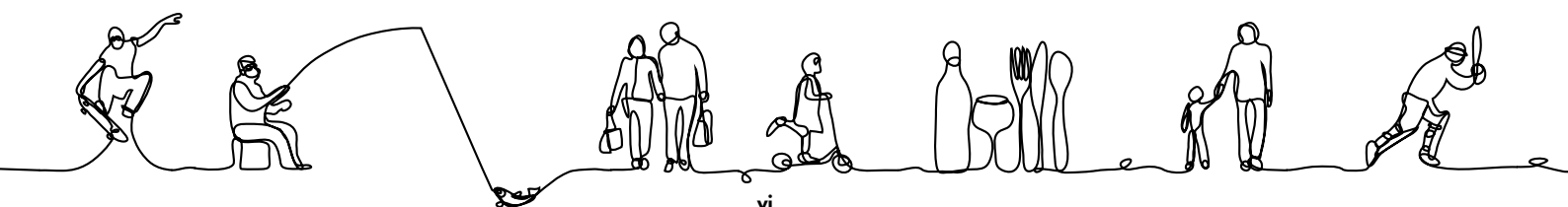
Many of the previous reviews of the planning system in England assumed a consensus in favour of a democratically accountable way of managing land and the built environment for the wider public good. However, that consensus appears no longer to hold. As a result, any review of planning in England has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

This 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 was established in the summer of 2017 and has taken extensive written evidence and held a series

of regional meetings, thematic roundtables, and more than 50 individual interviews. The evidence gathered is complex, but overall it illustrates a planning system which has undergone a bewildering rate of change and is now fragmented and confusing.

The evidence makes clear that the planning system is at a historically low ebb. Because of deregulation, planning in England is less effective than at any time in the post-war era, with an underfunded and deeply demoralised public planning service and conflicting policy objectives. The starkest 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 as a short-term measure but have now been made permanent. As a result, planning requirements for things such as affordable housing, play space, national space standards or school places do not apply. In some cases, 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, with estimates of between 86,665 and 95,045 units delivered between 2010 and 2017.ⁱ

The intention to extend this permissive 'shadow' planning process appears to reflect the government's 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 illustrates 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.

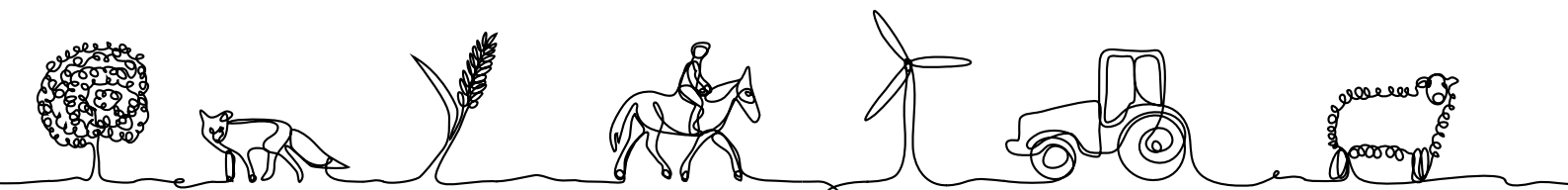


Ironically, while deregulation has made planning less effective, the legal framework that underpins it has become more complex and confused, with fragmented legislation shaping differing aspects of local and national planning and little co-ordination between the two. The division of responsibilities 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 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 significant 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 energy. This process is part of a profound change in civil society, manifested in declining political participation and a loss of 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.

If there is one striking conclusion to be drawn from the work of the Raynsford Review to date, 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 one 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.

There is a real danger that a review such as this 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. We have sought to avoid, on the one hand, an unduly negative perception 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 is attempting 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 ways of exploiting



the transformational impact of new technology in helping communities to engage with and shape change. In short, while the Review is keen to learn from the past, the ambition is not to return to some fictional ideal or to prop up existing practices, but instead to find real and practical solutions to challenges that lie ahead.

This Interim Report aims to promote debate about the future of the planning system in England by setting out

how the system was founded, examining its current structure, and providing an initial analysis of the evidence presented to the Review about its current performance. The Report ends by offering a series of provisional propositions that will help to inform the recommendations of the Final Report, which will be published in the autumn of 2018. The Review welcomes responses to these propositions, and you can email the Review team at raynsfordreview@tcpa.org.uk



Low cost housing 1900



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NINE PROPOSITIONS FOR A NEW PLANNING SYSTEM

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 the inability of market mechanisms alone to deliver a full range of public interest outcomes, and on 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.

PROPOSITION 2: Planning with a purpose

The basic purpose of planning is to improve the wellbeing of people by creating places of beauty, convenience and opportunity. 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. This objective is articulated in the United Nations' Sustainable Development Goals and in the 2005 UK Sustainable Development Strategy. This objective should be set out in a statutory purpose for the system and in supporting policy. The statutory purpose of planning should be as follows:

The purpose of planning

The purpose of the planning system is to positively promote the spatial organisation of land in order to achieve long-term sustainable development. In the Planning Acts, 'sustainable development' means managing the use, development and protection of land, the built environment and natural resources in a way, or at a rate, 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.

PROPOSITION 3: A powerful, people-centred planning system

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.

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 both the restoration of development management powers over the conversion of buildings to homes under permitted development rights and the creation, for the first time, of a genuinely plan-led system which can deliver co-ordination and certainty to developers and communities.

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 renewal, including clarity on the balance between representative, direct and participative democracy;
- 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.

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 might include:

- a right to a home;
- a right to basic living conditions to support people's health and wellbeing, secured through minimum design standards which meet people's needs throughout their lifetime; and
- a legal obligation to plan for the needs of future generations, through, for example, consideration of resource use.

PROPOSITION 6: Simplified planning law

There is a powerful case for a simplified, consolidated and integrated Spatial 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.

The structure of English planning should be composed of four spatial scales (neighbourhood, local, regional, and national planning), supported by the deployment of modernised Development Corporations to deal with particularly demanding issues such as flood risk, economic renewal, and population change. While the majority of decisions should remain with local planning authorities, regional and sub-regional planning will require renewed clarity on which institutions will be planning at this scale and the remit and governance arrangements that they should have.

PROPOSITION 7: Alignment between the agencies of English planning

Investment in infrastructure needs to be co-ordinated with plans for housing as a shared ambition across the planning and development sector. The question is how to achieve such 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 would aid delivery.

PROPOSITION 8: 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 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 is exploring three related options:

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

- a reformed Section 106 and Community Infrastructure Levy process; and
- an element of betterment taxation, as part of capital gains tax, which should be directed towards regeneration in low-demand areas.

PROPOSITION 9: A new kind of creative and visionary planner

While a clear purpose and logical structures could do much to improve the planning system, the culture, skills 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 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 reform of the education, ethics and continuing professional development of planners, but above all it requires a system, supported by necessary resources, that values high-quality and inclusive outcomes as much as it values speed of performance.

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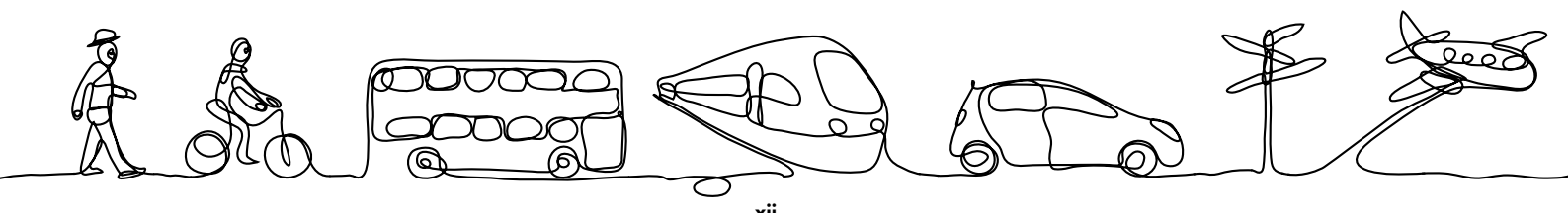
These nine propositions are the basis for a conversation about the future of planning in England, but the ambition of the Final Report, due to be published later this year, is to offer a lasting settlement around a new planning system. A functional planning system must offer a strong narrative of strategic spatial policy, from national through sub-national and city-regional to local and neighbourhood levels. This is simply because the challenges we are confronted with in infrastructure investment, housing, climate change and social inclusion are played out at differing spatial scales. This is not about top-down imposition. Instead, it is about recognising the need to integrate the differing spatial challenges into a coherent

framework which can help guide decision-making in all sectors. But the task ahead is not simply technical. A planning system which is truly fit for purpose must offer a compelling and optimistic vision for the future of the nation, setting out the role of people and participation in the planning process.

Above all, change requires a new political consensus on the benefits of organising our activities to face the big challenges of the 21st century. Such a consensus may seem a distant prospect, but the value of planning should be defined not by political preconceptions but by the practical value of organising ourselves effectively to face the future.

References:

- i P Bibby et al.: *The Exercise of Permitted Development Rights in England since 2010*. Royal Institution of Chartered Surveyors, May 2018



SECTION ONE

INTRODUCTION

Planning is a vital means of securing the long-term wellbeing of our communities. It enables the efficient use of resources and infrastructure, with multiple benefits to society, the environment and the economy. England is a geographically small, densely populated nation, with multiple demands on land and the built environment. The decisions that the nation makes now about housing growth or energy will define the fate of future generations. For these reasons, how we plan matters, not just to professional planners or politicians, but to communities and individuals whose fate rests on how we decide to organise ourselves.

While planning can claim many significant achievements, there has been growing criticism of the current planning system in England on the grounds that it is out of touch with ordinary people's lives and is not fit for purpose in securing lasting progress on key aspects of the economy, meeting housing needs, or tackling climate change. The strongest critique has been from those who regard planning as anti-competitive and an unwarranted interference in the free market in land. These criticisms have been expressed by successive Prime Ministers and Chancellors of the Exchequer, significantly contributing to questions about the basic utility of planning regulation and culminating in 2011 in the famous description of planning by the then Prime Minister, David Cameron, as the 'enemy of enterprise'.¹

Since 2010 the English planning system has gone through an extensive period of 'radical' reform and deregulation,² but the outcomes for communities, the environment and the economy remain uncertain. Planning departments are under growing pressure to perform, but many do not have sufficient skills and capacity. Research carried out by the TCPA³ suggests that Local Plans have downgraded or removed policy on affordable homes,

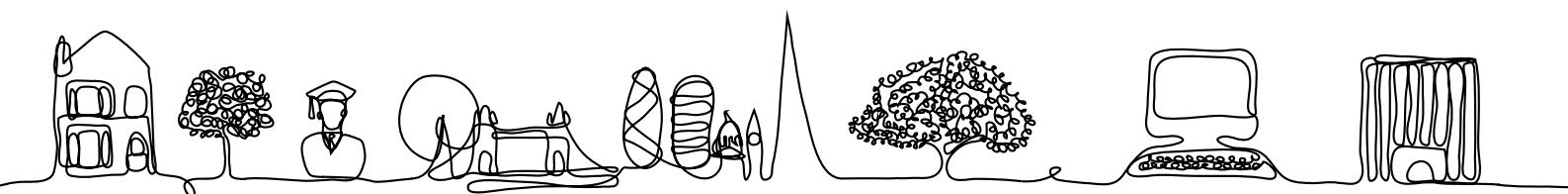
climate change and social inclusion, and have not yet responded to growing evidence on the links between public health and the built environment. All of this is increasing levels of concern over the kinds of places that are being built and their impact on the long-term public interest. Are we building the kinds of places 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 will publish its Final Report in autumn 2018. A list of Task Force members is set out in at the beginning of this Interim Report.

The detailed terms of reference of the Review are set out in Annex 1, but the primary focus of the Review is a holistic appraisal of the kind of planning system that the nation will need by 2020. Its aim is 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.

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, or where it will end. It has, for example, been hard to discern any consensus on the intended purpose of the system. As a result, the Review has been forced to question all of the foundational propositions of the planning system, including whether we need the system at all.

THE PURPOSE OF THE INTERIM REPORT

This Interim Report provides a high-level scan of key issues that have confronted the Review, and offers a set of broad propositions which might underpin the future reform of the English planning system. The Report is not intended as a detailed exposition of the wealth of evidence that has been received or the background papers commissioned by the Review team.⁴ Nor does it present the outcomes of the Review's exploration of international planning systems, which are still emerging and will feature in the Final Report. Instead, the objective of the Interim Report is to reveal the scale of the challenges confronting the planning system and then to test whether there is any potential for a consensus over the future. Given the past record of planning reform, there is no doubt that there needs to be both cross-party support and some degree of acceptance across the sector on the future reform of the system.

WHAT THE RAYNSFORD REVIEW DOES NOT DO

Given the breadth of the 'planning' question, it is important to indicate the limitations of the Review. Despite their importance, the Review was not primarily focused on building regulations, on which there is separate and ongoing investigation after the Grenfell Tower tragedy; nor on the public entertainment licensing or pollution permitting regimes.

Furthermore, the Review is focused on the major underlying questions over the performance of the system, and not primarily on its detailed administrative management. 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 resolving some of the fundamental questions on issues such as the role of people in planning, the power of the development plan and the betterment tax question could reduce the complexity of the system. ***The Interim Report is intended as high-level scan of these issues, with the Final Report providing a more detailed exposition of the drivers for change, along with detailed recommendations.***

WHAT DO WE MEAN BY PLANNING?

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 important to be clear about 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.

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 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 unfortunate 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 conclusion, but one supported by a wealth of robust data.⁵

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, and, because the built environment lasts for generations, planning must be able to think about these matters over the long term. Planning also must deal with the reality of the geography of the nation, from travel-to-work areas to flood plains and river catchments. It has to 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 their environment; a position which has been described

as ‘spatial planning’. Planning has one final 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 which 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. 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 or one focused on sustainable development. Neither could the Review restrict itself to the statutory town and county planning system, since English planning operates through multiple legal frameworks, including a separate national infrastructure regime. In the rest of this Interim Report the intention is to use the word ‘planning’ to refer to the broader notion of shaping places, and ‘statutory planning’ to refer to the current legal framework in England.

[illegible]

Image Credit: Redrow Homes

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 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 focused 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 private sector business expanding a factory could not be more different from a private sector land trader. 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. Many communities currently feel excluded from the planning process, and so have not engaged in the Review. This complexity implies caution in any blanket assessment of the needs or views of the differing sectors.

THE STRUCTURE OF THE INTERIM REPORT

This Report provides an explanation of the development of the current planning system and explains why the system was introduced and the principles that underpinned it. It then moves on in Section 3 to consider in outline previous reviews of the system, and then, briefly, in Section 4, examines the complexity of the current system. Section 5 deals with the evidence that the Review has received, and Section 6 reflects on the implications of this evidence and provides some high-level propositions which will inform the Final Report.

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- 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 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 NPPF 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>
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- 4 The papers are available from the Raynsford Review website, at <https://www.tcpa.org.uk/raynsford-review>
- 5 *Spatial Planning for Health: An Evidence Resource for Planning and Designing Healthier Places*. Public Health England, Jun. 2017.
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SECTION TWO

CLEARING THE GROUND— THE EVOLUTION OF THE PLANNING SYSTEM

THE HISTORICAL CONTEXT OF THE ENGLISH PLANNING SYSTEM

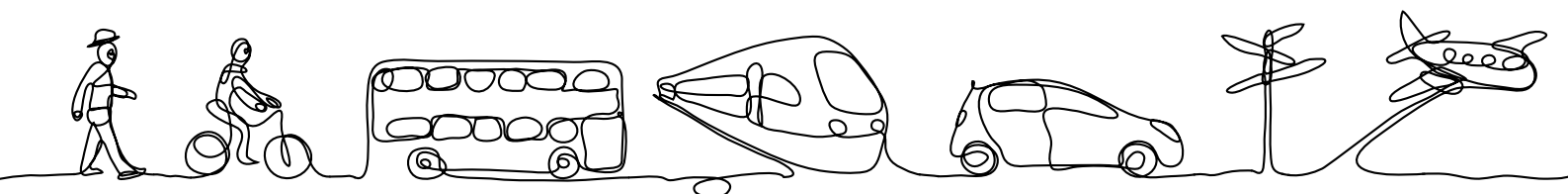
Providing an assessment of English planning is challenging because of the mythology which surrounds all aspects of the system. This has caused two problems: the first is short term and relates to the way in which the government has chosen to apply the evidence of the system's performance in framing the extensive planning reform of recent years. The government has often relied on partial evidence – for example, by setting out 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 was not supported by systematic evidence. The second aspect is long term and stems from entrenched perceptions of planning as 'Stalinist', 'centralised', 'technocratic', the 'enemy of enterprise', and 'out of touch'. While there may be an element of truth to some of these views, on the whole they get in the way of a rational 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 an effective 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. They assumed that planning control was a problem because intervention in the market was intrinsically anti-competitive, rather drawing on a specific and balanced evidence base to support this view.⁶ This Section provides a very 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 an evolution 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-law⁷ terraced houses, but failed to deal with issues of wider environmental and social infrastructure. Local authorities were responsible for ensuring that each home had basic sanitation, but everything else was left unregulated. Despite the occasional example of private philanthropy, housing for most people was of poor quality, lacking any consideration of community facilities. The first planning legislation, the Housing and Town Planning 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. The legislation allowed local authorities to write town plans and promote housing schemes. However, in common with all the legislation up to 1939, it had two critical 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 development of land, a local authority would have 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 which resulted from the provision of transport and energy infrastructure. This ‘unearned increment’,⁸ 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 housing⁹ and the adoption of demanding housing design requirements which were laid down in 1919,¹⁰ and which, through a number of iterations, remained in force until they were finally abolished in 1980.

However, the planning system was weak and fragmented and could not deal with the legacy of chronically poor housing conditions;¹¹ nor could it deal with the expansion of private sector housing which, particularly in London, had begun to spread along arterial routes.¹² 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 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 Commission¹³ in 1938, which examined the evidence of this decline and argued for a comprehensive, planned response.

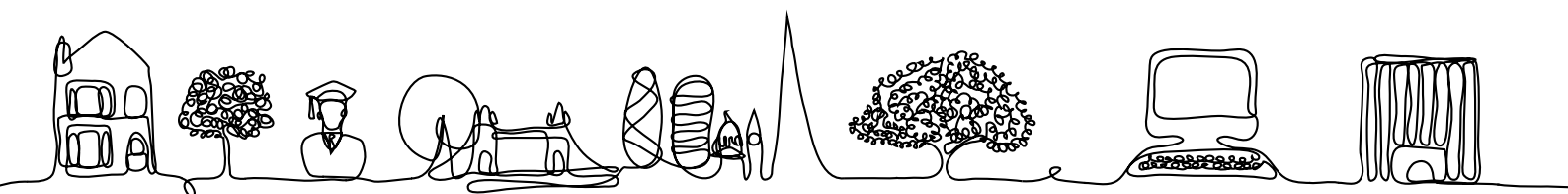
Two things are striking about this pre-war record:

- 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 is the poor housing conditions seen in the private rented sector, which, despite some action, persisted as a chronic 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.

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 ‘citizen’s’ 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 today 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 J B 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 cinema¹⁴ as through technical reports.

The technical case for planning was nonetheless impressive. The publication of the Barlow Report (and the



two minority reports) in 1940, which recommended a national plan, was supplemented by the Scott Report¹⁵ on land utilisation and the Uthwatt Report¹⁶ on compensation and betterment. Lord Reith was commissioned to examine the implementations of New Towns.¹⁷ 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 Barlow 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 informed by 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 just 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,¹⁸ 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 dereliction¹⁹ 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, form the basis for land management in the immediate post-war era. As well as the designation of National Parks,²⁰ 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 is 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 – a 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 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. The US-style 'zonal plan' has less discretion: 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. 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 rest of town planning they created an ongoing and uncomfortable relationship over the degree to which central government should intervene over policy and practice.
- **Development Corporations:** The system assumed the use of New Town Development Corporations for large-scale growth to deal with major demographic change by 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 1954²¹ 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 other 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%.²²

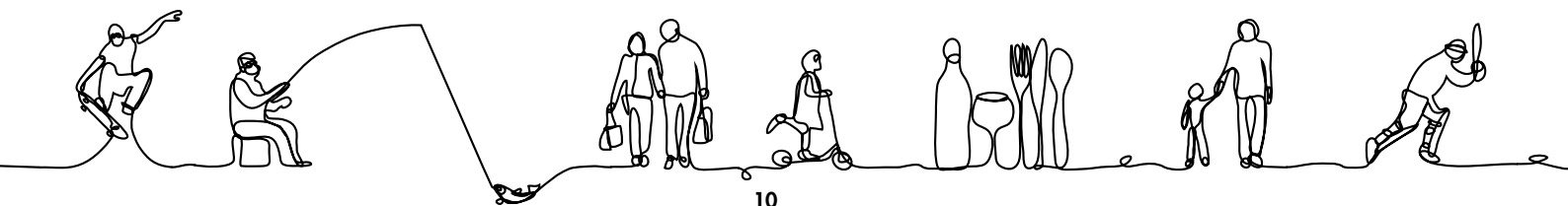
Despite these changes, in the two decades after the regime came into force there was outstanding success on housing and place-making, on conservation and the environment, and in the growth of knowledge and expertise in planning. The 1947 planning system oversaw the greatest level of housebuilding in 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 planning in England. Despite the powers for 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.

References:

- 6 The clearest example of the selective use of such evidence is 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
- 7 The 1848 Public Health Act allowed local authorities to adopt 'by-laws' to regulate basic sanitation
- 8 Attributed to a speech given by Churchill at the King's Theatre, Edinburgh on 17 July 1909
- 9 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, by which time we had had 20 years of comprehensive planning, there were 380,000 completions, of which 181,000 were council houses)
- 10 *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
- 11 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
- 12 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
- 13 *Report of the Royal Commission on the Distribution of the Industrial Population*. Barlow Report. Cmd 6153. HMSO, Jan. 1940
- 14 See, for example, Paul Rotha's feature-length film *Land of Promise* (1946)
- 15 *Report of the Committee on Land Utilisation in Rural Areas*. Scott Report. Cmd 6378. HMSO, 1942
- 16 *Final Report of the Expert Committee on Compensation and Betterment*. Uthwatt Report. Cmd 6386. HMSO, 1941
- 17 *Final Report of the New Towns Committee*. Reith Report. Cmd 6876. HMSO, 1946
- 18 *Social Insurance and Allied Services*. Beveridge Report. Cmd 6404. HMSO, 1942
- 19 The scale of this problem in areas such as the North East and the West Midlands was breath-taking
- 20 Through the National Parks and Access to the Countryside Act 1949
- 21 Through the Town and Country Planning Act 1954
- 22 The Uthwatt Report had recommended 75%



SECTION THREE

THE LESSONS OF PREVIOUS REVIEWS OF THE PLANNING SYSTEM

Concerns over the operation and outcomes of the planning system began to emerge in earnest with the report of the Planning Advisory Group (PAG),²³ 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 different local authority tiers.

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, 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.²⁴ 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).

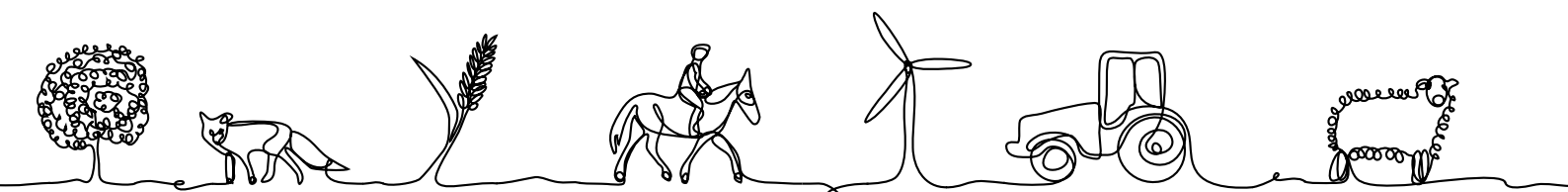
The first major review of development management was published by Dobry²⁵ in 1975. It is significant that both the Dobry and PAG reports essentially took the core objectives of planning as read and proceeded to propose procedural changes to the system.

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’.
- 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.

The 1969 Skeffington Report²⁶ was an exception to this pattern. Skeffington focused overwhelmingly on public participation in the system, 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 (see Fig. 1). It is significant that, while there have been repeat reviews on planning procedure, there has never been a repeat of Skeffington. The last 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, the 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 on the lessons of past reforms. Each of the reviews resulted in legal and policy changes from government and reflected increasing concerns surrounding economic decline. 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.²⁷ 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 (set out below). The Nuffield Report of 1986 was the result of an independent examination of the system which 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 Review was again a focused investigation of planning enforcement procedures.

The 1990s were marked by a growing concern over probity in decision-making, following a series of high-profile corruption cases in local government. The Nolan Report²⁸ of 1997 was commissioned to address these concerns. Although widely taken as restricting the remit of politicians, Nolan explicitly recognised their political function but tried to bound 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 Reviews²⁹ of housing supply and planning (2004 and 2006) reflected this imperative and were commissioned primarily by HM Treasury.
- Second, these contemporary reviews have been undertaken with much more limited resources and timescales, and have consequently been able to involve fewer voices from the wider public and 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 democratic planning in the public interest designed 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, none of the reviews accepted that planning had monetarised financial benefits in delivering wider public goods. At no point was this basic cost-benefit equation ever populated with benefits.

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 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) report³⁰ 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



'Participation' strategies illustrated in the Skeffington Report

Fig. 1: Participation strategies illustrated in the Skeffington Report

development plans, on the grounds that this would speed up the preparation of plans and save costs. It is worth noting that there have also been a series of important parliamentary inquiries on planning issues, but none have examined the system in the round.³¹

The exception to this rule is the Royal Commission on Environmental Pollution's 23rd report, *Environmental Planning*, published in 2002.³² Of all the reviews of planning carried out over the last 30 years, this is 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 summarises the institutional structures of planning as they were in 2002 and how significantly more complex this picture now is after the impact of a decade and a half of both planning reform and the devolution agenda.

CONCLUSIONS

Any summary of the history of the planning system will tend to miss the nuances of how change originally came about. A focus on the formal reviews of the system tends 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, both of which face very serious challenges around their survival.

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 has not helped encourage public understanding.
- The case for planning was founded on two primary factors: first that land is a public good and that an unregulated market tends to produce 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 the health and happiness of 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 different 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 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 any opportunity to bed down – this is a striking and growing reality, with planning reform now being a 'continuous revolution'.

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<http://webarchive.nationalarchives.gov.uk/20070202120000/http://www.rcep.org.uk/epreport.htm>

SECTION FOUR

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

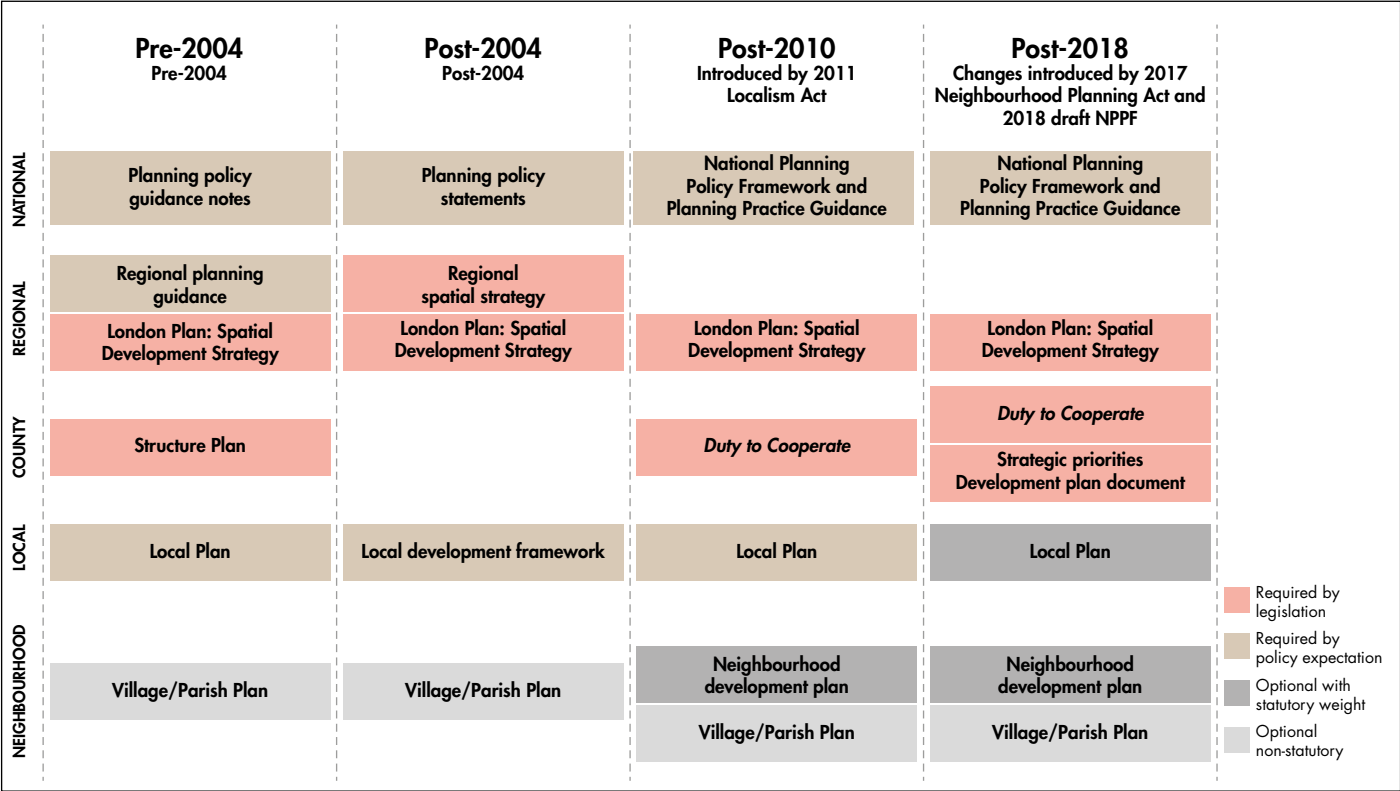
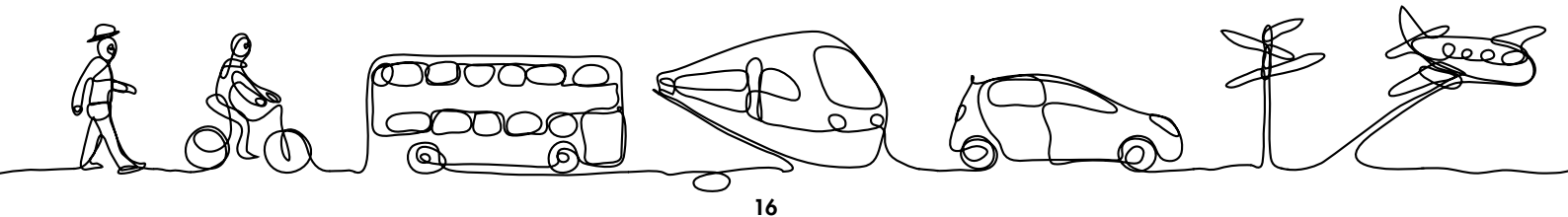


Fig. 2: Development planning frameworks in England over the last 15 years

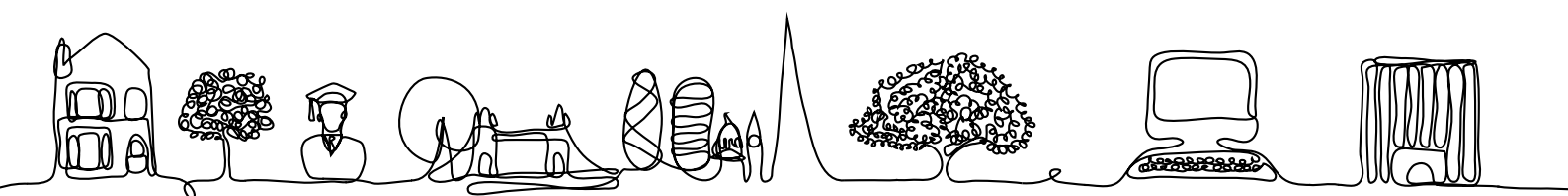


Whatever the merits of each system, the rate of change has intensified to the point where new systems are abolished before there has been a realistic period of time in which to assess their performance. This intensity of change also reinforces a sense of incrementalism, which makes it hard to assess the wider planning framework when there are such significant changes to policy, guidance and secondary legislation. This Section sets out a brief description of the system as it stands in May 2018, acknowledging that the system will have changed significantly by the time of the publication of the Final Report.

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 the 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 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’, which is framed using unprecedented language to make the ‘proving of harm that might result from a development’ much more onerous. The impact of the NPPF will be discussed in more detail in the Final Report, but a number of serious tensions have emerged between the presumption in favour of development and the statutory obligation for a planned system. The NPPF viability test also effectively enabled developers to challenge local policy which compromised their development profit.



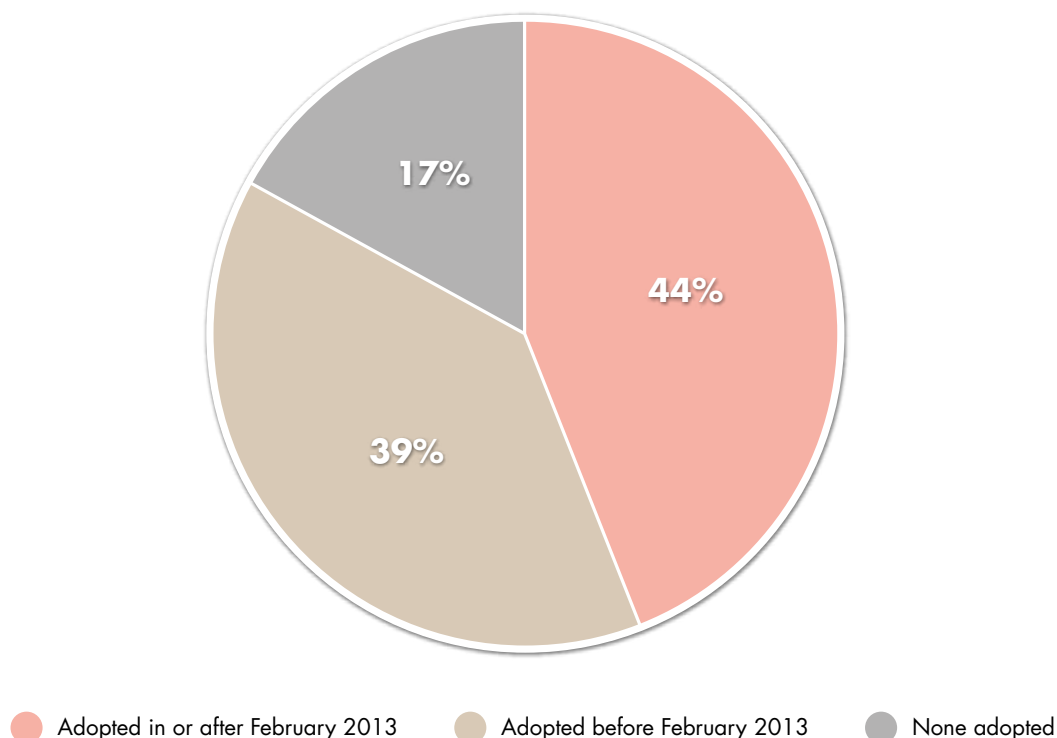
THE LEGAL FOUNDATIONS OF THE PLANNING SYSTEM

- **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.
- **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 priorities³³ based upon the limited issues set out in paragraph 156 of the 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:** 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 confirmed that other more detailed Local Plans would now be discretionary.

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 majority of locally determined planning decisions, while the 2008 nationally significant infrastructure projects (NSIPs) 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 amendments³⁴ removed onshore wind energy projects of more than 50 megawatt capacity and passed these schemes 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 traditional route of a Hybrid Bill, where the rights of the public to test the scheme are limited and essentially unchanged from the process the Victorians used 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 in preparation of National Policy Statements (NPSs), 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. NPS 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 been revised.³⁵ There is a major third 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

LOCAL AUTHORITY CORE STRATEGIC PLAN PROGRESS UK



Data source: The Planning Inspectorate February 2018.

According to the Government, Local Plans may be 'found sound' conditional upon a review in whole or in part within 5 years of the date of adoption (<https://www.gov.uk/guidance/local-plans-2>). As such, those adopted before February 2013 may not be found sound.

Fig. 3 Progress on preparing core strategies

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 not been laid before Parliament.

All of 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 changed 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 designation for biodiversity.

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 sits within a very complex pattern of local government structures in England. The simplest position is in unitary authorities such as Cornwall, which have control over a full range of planning functions, from minerals to housing. 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 strategic plan has to be adopted in the ten separate local development plans of each constituent local planning authority if it is to have full force. This position reinforces the conclusion that a logical planning system is hard to achieve in the absence of logical local government organisation. For completeness, it is important to reference the continued role of Local Enterprise Partnerships and the rise of regional transport bodies, all of which fit into the complex ‘mosaic’ of how England is organised.

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 preparation performance requirement regime for plan-making, with a threat not simply of applying the presumption in favour of development where a plan is judged out of date, 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. There are no performance indicators for the quality of the content of the plan or its broader outcomes.

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 45 unitary authorities, established between 1995 and 1998, 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 34 county councils; and, within those counties, 238 district councils, most of which have a population in the range 60,000–100,000 people. 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 END OF THE LOCAL PLAN?

The draft revised NPPF published in March 2018 sets out a new development plan system for England. 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. The legal requirement for a strategic plan was set out in the 2017 Neighbourhood Planning Act. Local Plans, as they are now understood, will be discretionary. The Ministry for Housing, Communities and Local Government (MHCLG) has made clear that Neighbourhood Plans could implement some of the detailed policy currently in Local Plans. While this new system has yet to be clearly articulated, there are already significant concerns that this represents a further deregulation of the plan-led system. While the 2004 system contained significant flexibility on what could be included in a Local Development Framework, it did require a core strategy which could contain detailed policy and was backed by Regional Spatial Strategies which were part of the statutory development plan for every local planning authority area.

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’**.³⁶ Permission in principle is intended to reduce uncertainty in the planning system by establishing the suitability of a site for development, including certainty over 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 surrounds the separation of the detailed knowledge of site characteristics from whether it is suitable for development in principle. A European-style zonal plan provides much greater certainty, but is also much more detailed than the English Local Plan. The English Local Plan allocates sites on their general sustainable development credentials but involves no detailed site investigations: it is normally a paper exercise. The previous safeguard was that a further full application, including detailed evidence through Environmental Impact Assessments (EIA) 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. Of all aspects of the current planning system, PiP will probably be the element most open to legal challenge.

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 which apply to other forms of development plan. Parish and town councils, as well as unelected neighbourhood forums in urban areas, 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 2,300³⁷ Neighbourhood Plans were complete or under preparation (see Fig. 4).

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. 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 state 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 will also apply to developments 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 were 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

At the same as major changes to planning, government has also made changes to building standards. The abolition of the Code for Sustainable Homes and the abandonment of the zero-carbon commitment in 2016 are two examples of this trend. 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.

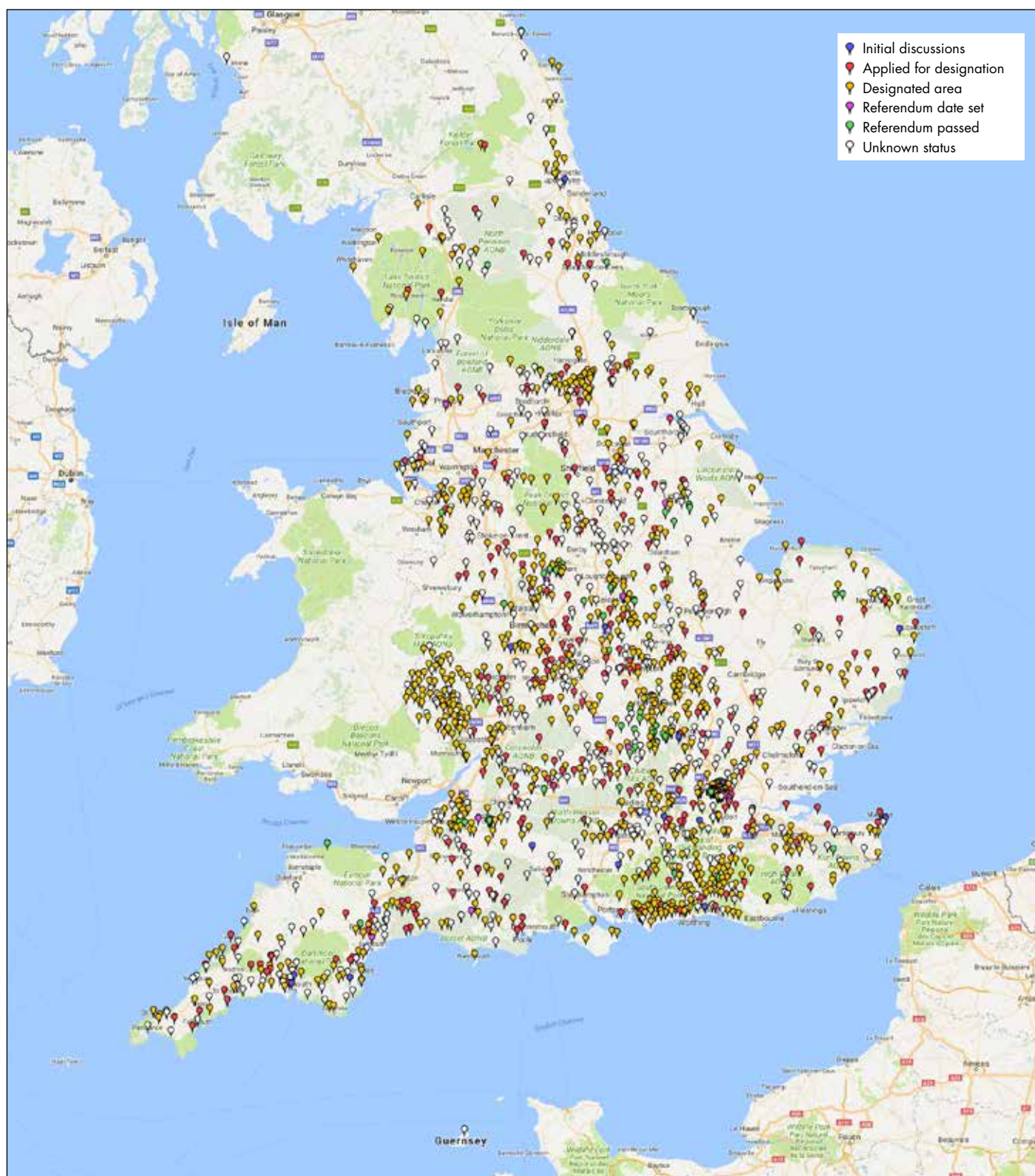


Fig. 4 Areas with Neighbourhood Plans in place or in preparation

BETTERMENT TAXATION

The current method of recouping development values relies on the voluntary implementation of the Community Infrastructure Levy (CIL) and the ad hoc use of Section 106 agreements. Section 106 agreements are contracts between the developer and the local planning authority, and can involve lengthy negotiations and provide highly variable yields to localities.³⁸ The simple fact is that there is much less ‘planning gain’ available in low-demand areas. Section 106 agreements, which can include in-kind provision for affordable homes, are generally related to development costs rather than development values, and can be viewed as charges or ‘impact fees’ rather than taxes. Section 106 agreements are therefore, in principle, regressive taxation mechanisms and are inefficient in terms of capturing betterment because they tax broader development values rather than land values. 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, 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 2007/08.³⁹ The latest research⁴⁰ commissioned by the Ministry of Housing, Communities 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. 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 the reduction of Local Plan requirements for affordable homes, particularly in low-demand areas. 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 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 funds for infrastructure costs that resulted from the impacts of new development.

The CIL regime was comprehensively examined in late 2016 by a review group led by Liz Peace⁴¹ – 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%⁴² of the total cost.

This picture reinforces two significant points:

- The current method of recouping development values relies on the voluntary implementation of CIL and the ad hoc use of 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.⁴³ Given that housebuilding is also subject to very significant public subsidy,⁴⁴ it is interesting to reflect on the wider question of fairness between taxpayers and those who profit from betterment values.

Both Section 106 and CIL charging schemes must be set in the policy context of the NPPF viability test, which preserves the expectation of substantial developer profit margins. The CIL review group 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.

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.

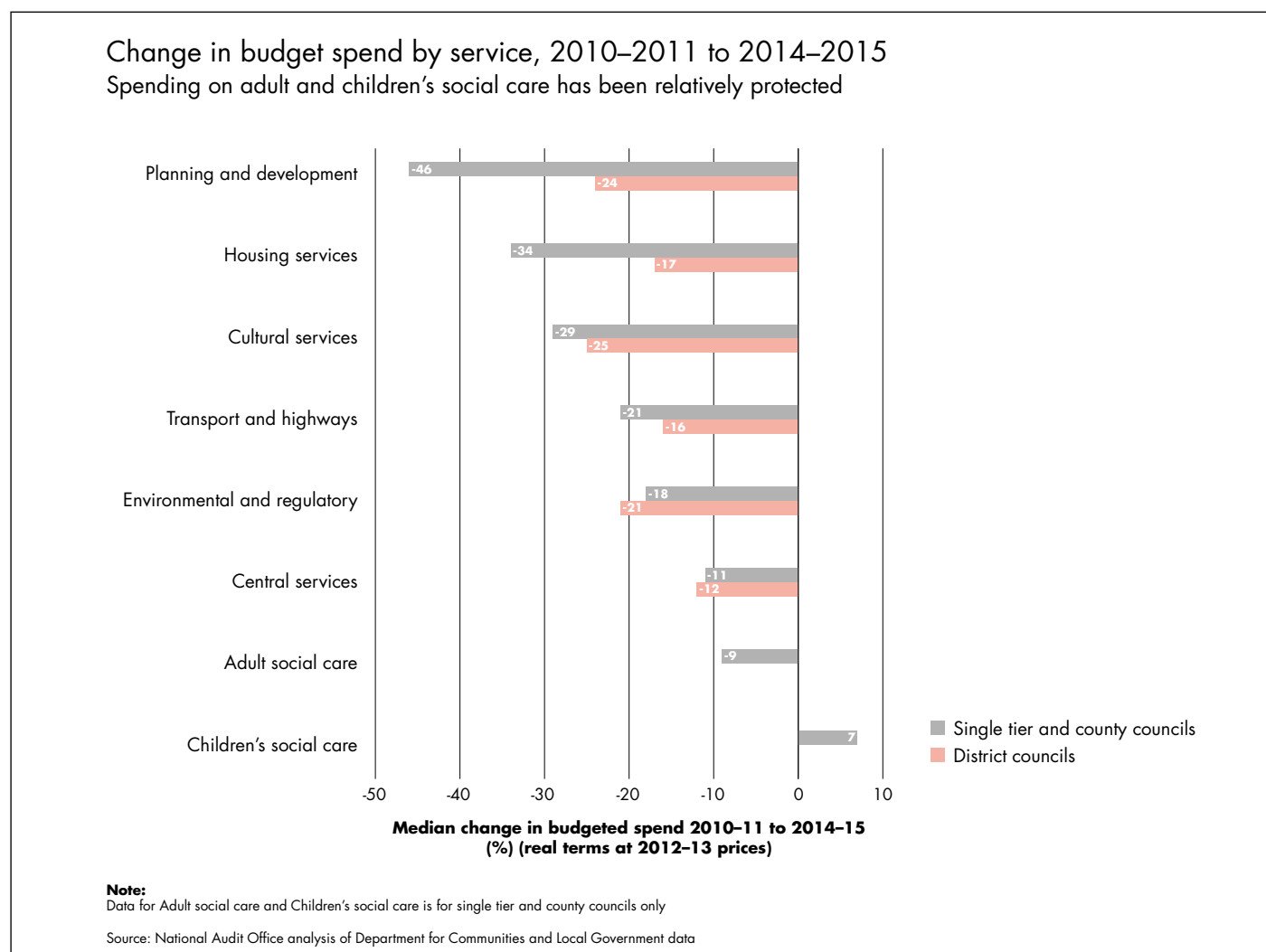


Fig. 5 The extent of the cuts to the planning service

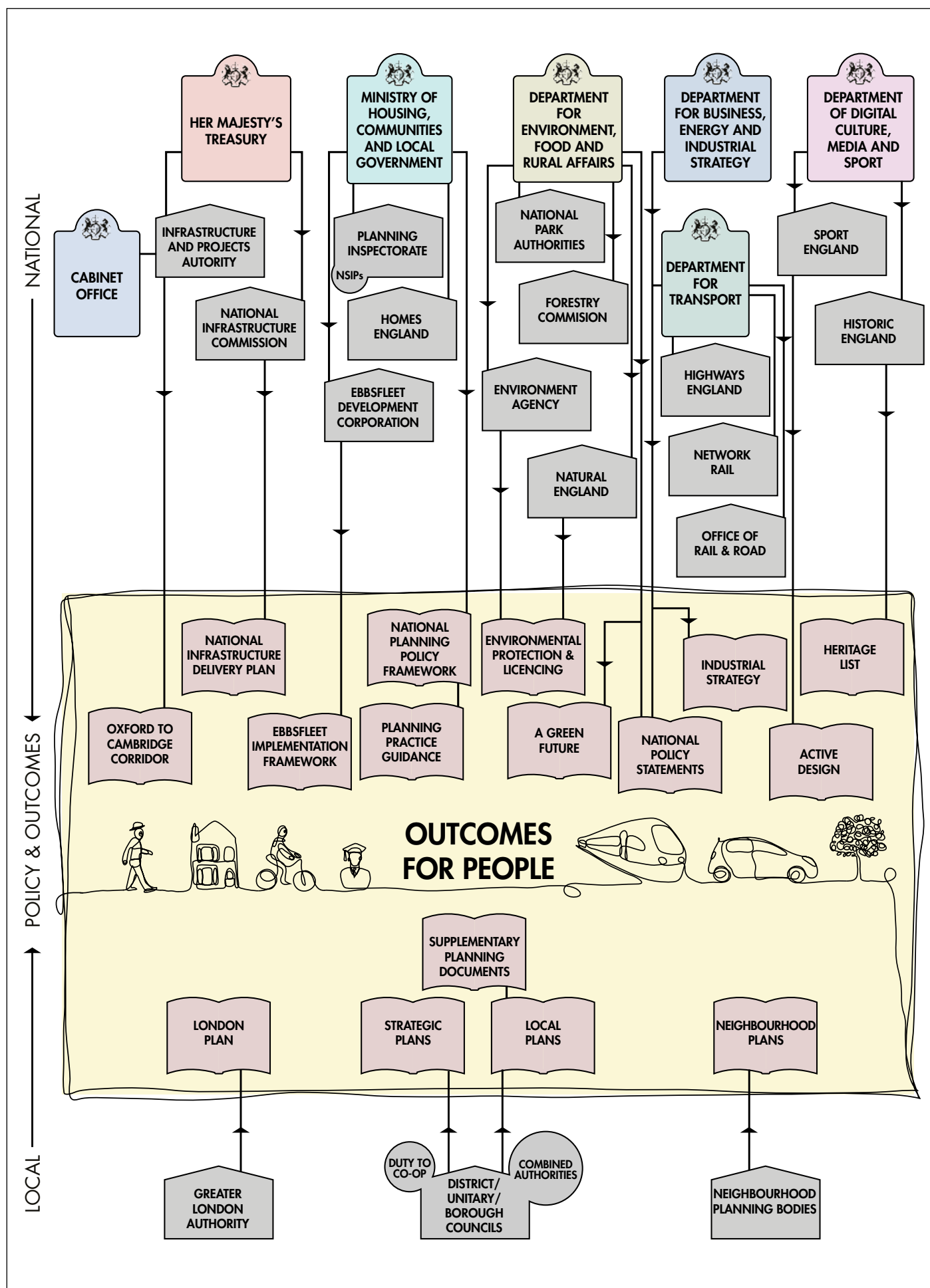


Fig. 6 What do some aspects of the contemporary planning system look like?

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. 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, the MHCLG issues specific policy on ad hoc basis through ministerial statements and chief planning officer letters. 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 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 planning. Examples of these

strategies include the 25-Year Environment Plan,⁴⁵ the national adaptation plans,⁴⁶ and the Industrial Strategy.⁴⁷ The 2008 nationally significant infrastructure projects (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,⁴⁸ 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.

HOW GREAT IS THE DIFFERENCE BETWEEN THE 2018 SYSTEM AND THE PRINCIPLES OF THE 1947 ACT?

Table 1 assesses the state of the 2018 planning system against the objectives of 1947 planning settlement set out in Section 2.

Table 1

The state of the 2018 planning system compared with the objectives of 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, these 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 mechanism for betterment tax and only ad hoc methods of collecting development values through CIL or Section 106 agreements.
Locally accountability	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, and planning powers are being granted to Combined Authorities, but large parts of England will now not be part of Combined Authorities. In relation to the development plan, the 2,200 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.
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 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.

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 unclear, as is how regulatory convergence may influence how much EU regulation we retain. 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 or not important frameworks such as Environmental Impact Assessments are retained.

CONCLUSIONS

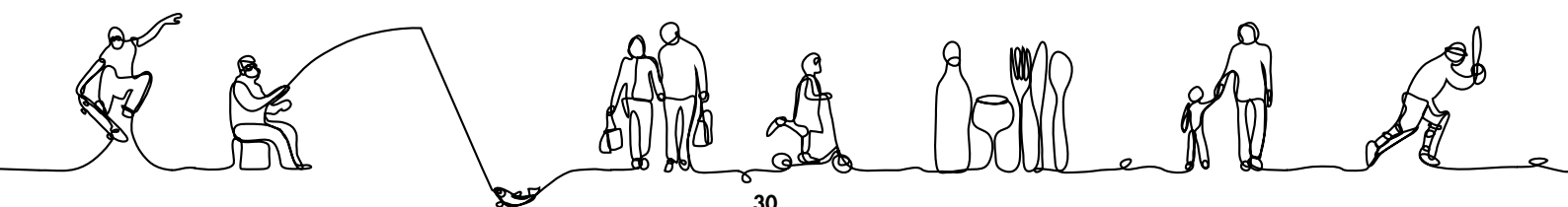
The current English planning framework has changed rapidly since 2010, with major changes to the objectives, structures and remit of the system. This rapid rate of change is continuing, and the system is now markedly different from the one that existed when the Review began. The government has not published a vision or a route-map of what the system will look like at the end of this new round of reform. In this context, the Review has to 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 the following:

- Planning legislation is highly complex and 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 owned by differing parts of government.
- The system now has less effective control over many forms of development.

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.

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SECTION FIVE

THE EVIDENCE

THE NATURE AND CHARACTER OF THE EVIDENCE

The Review team is 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). The Final Report will contain a full description of this evidence. 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.

One important caveat about the nature of the 'conversations' in and surrounding the Review's roundtable events is the clear gap between what stakeholders will say publicly and what they care to tell 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

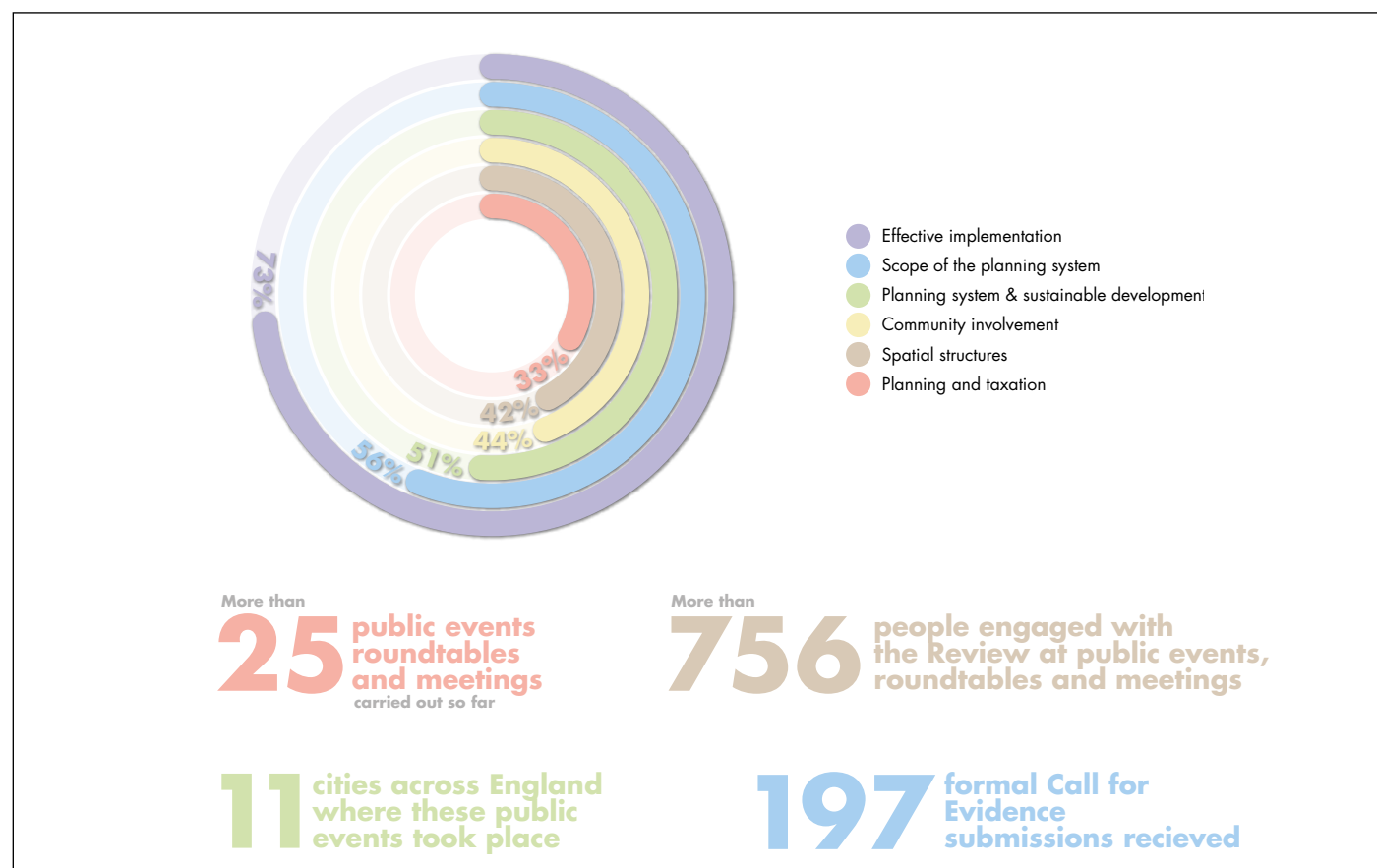
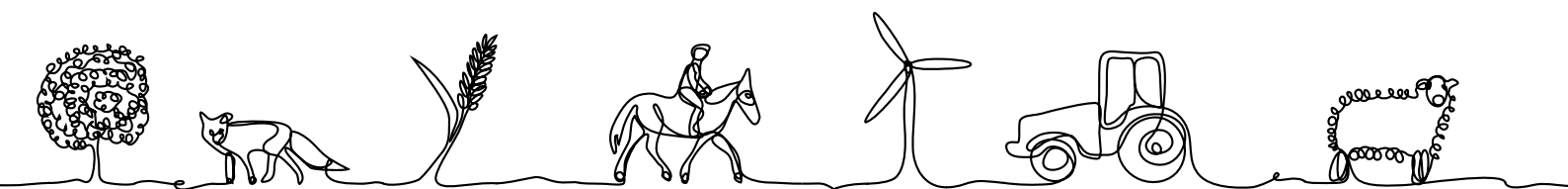


Fig. 7 Review responses and engagement



KEY POLICY ISSUES THAT FLOW FROM THE EVIDENCE

own authority, and so they were reluctant to express their private conclusions about how challenging planning practice is. Likewise, some volume housebuilders have 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. A danger for the Review is a lack of high-quality and impartial evidence on many of these issues and, as a result, a risk of becoming mired in competing waves of what is essentially hearsay based on the understandable corporate priorities of the differing sectors.

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, annual authority 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 standards⁴⁹ or carbon dioxide emissions reduction, as research conducted by the TCPA has shown.⁵⁰ As a result, this Interim Report attempts both to make clear where there are key evidential gaps and to focus on themes for which evidence could be robustly collated.

The nature of the evidence presented to 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 spatial 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 and disagreement raised in the evidence can be grouped into seven key themes:

- the purpose and objectives of the system;
- the degree to which the current system is delivering on its objectives;
- how much power spatial planning should have (positive and negative);
- how the balance of planning powers should be distributed between central and local government;
- the right spatial structure for planning, including local government structure and boundaries;
- the degree to which communities should have meaningful control over their own local environment, and the nature of community rights; and
- issues of betterment and fair land taxation.

EMERGING POLICY THEME 1: THE PURPOSE AND OBJECTIVES OF THE PLANNING SYSTEM

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

- concern about the skills of planners and the content of planning education;
- the poor morale of the planning service and the confusion surrounding the role of the town planner;
- the 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 the significant change to the status of Green Belt;
- the failure of planning to adequately ensure the co-ordination of wider investment in a range of social, transport and utilities infrastructure; and
- the funding of the planning service.

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. Solving this problem would undoubtedly contribute more in the short term to addressing the concerns around delivery than any other single measure.

The rest of this Section briefly sets out the evidence in relation to each of these themes.

There is broadly a division in the submitted 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,⁵¹ and those who see the objective of planning as supporting private sector housing delivery in support of wider economic growth. Review Background Paper 2⁵² 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 there is a real concern 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 place. Part of this change has been the assumption that the allocation of housing units for private sector providers 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.

This general concern about the objectives of the planning system is expressed in the evidence in two ways:

- There is no clarity in law or policy on 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.⁵³ The definition of sustainable development in both the existing and draft revised NPPF are vague and not founded on UK or internationally recognised definitions. As a result, ***'the use of sustainable most often refers to economic growth'***.⁵⁴ 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 harm) has had the effect of de-prioritising important planning considerations which might have improved the quality of development.

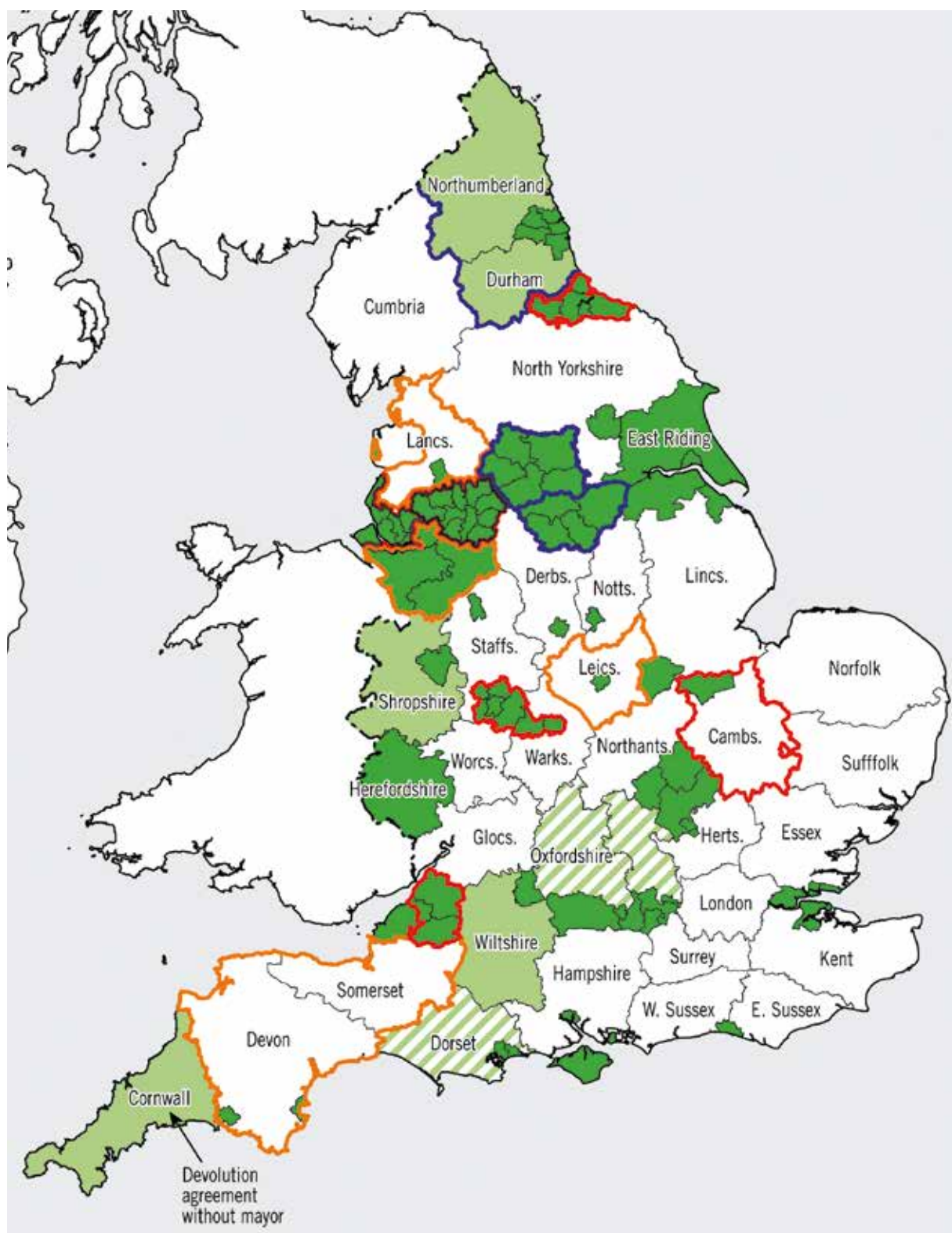
EMERGING POLICY THEME 2: IS THE CURRENT SYSTEM 'SUCCESSFUL'?

- If there is clear evidence for the legal and policy changes to the core objectives of planning, there is more complex and provisional evidence as to whether this has resulted in negative outcomes. 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 is 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. In reality this polarity in the argument is much more nuanced, but 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 system has shifted decisively towards the latter.

This summary leaves out the call from a minority of respondents for a refocusing on a much more positive and 'people-centred' and 'sociable' planning system. Care is needed not to over-emphasise the significance of this call, given the overwhelming focus of most respondents on the working of the current statutory system. It was a view which tended to be expressed by some politicians, younger participants, some planning consultancies, architects, and some community organisations. A further view which was significant in 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 some welcome agreement on the case for planning as a rational tool for the co-ordination of public and private investment and, in particular, for the role of plans in supporting asset values.

The degree to which the current system is 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 of planning is to increase the allocation of housing units, then the system is plainly delivering, with consent for 321,000⁵⁵ housing units granted in 2017, bringing the total of unimplemented permissions to an estimated 600,000,⁵⁶ and an unrecorded additional number of units allocated in adopted and draft Local Plans.⁵⁷ Permissions alone are now running well in advance of demographic need,⁵⁸ and have been doing so at least since 2014.⁵⁹ 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, 139,000 new homes were built. By adding the number created by conversion, the figure reached a total of 190,000 housing units completed in 2016 and 220,000 in 2017.⁶⁰ 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 government, affordability has been, and here the 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 2017.⁶¹



- County councils (with complete lower tier, not shown)
- Unitary councils, including metropolitan councils (with no lower-tier authorities)
- Unitary councils, former counties with a lower tier until 2009
- ▨ County council areas with active proposals to become unitary in one or more councils in 2016, ministerial decisions awaited
- Combined authorities with mayoral election, May 2017, devolution agreement in operation
- Combined authorities with devolution agreement not currently proceeding
- Other areas with combined authority and devolution agreement reported recently as possible

Fig. 8 Combined Authorities as at May 2017 from the available building blocks – upper-tier local authorities
 Source: Townsend, A; *Combined authorities - where next?* Town & Country Planning, Sept. 2017, Vol. 86, No. 9

Table 2.2.1 Net additions to housing supply in England 2011/12 – 2016/17						
	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
+ 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
– 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
Quarterly new build figures	118,510	107,980	112,330	124,650	139,670	147,920

Net additions to housing supply in England 2011/12 – 2016/17. Source: Stephens, M et al., *UK Housing Review 2018*, CIH, March 2018

The government's other indicators of success present a mixed picture. Neighbourhood planning must 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.⁶² 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 draft revised NPPF.

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 years of implementation. The development of city-regional and strategic plans is progressing slowly, led by the formation of Combined Authorities. There is no simple 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).⁶³ 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 such as that for Leicester and Leicestershire have less formal strategic plans. 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 consideration of homes and infrastructure. Others highlighted the fragility of the process and the tendency not to reveal deep political division 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 functional city-region will be dealt with.

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.⁶⁴ 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 system is not producing enough consents or that planning consent is subject to a general problem of delay (although there is obviously frustration on individual schemes). However, it is also hard to conclude, even when tested against the residualised policy ambitions of the 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 seven 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 deregulated some aspects of planning, it has added a great deal of procedural complexity, illustrated by the labyrinthine amendments to planning legislation and perhaps most obviously seen in complex new mechanisms such as ‘permission in principle’. There remains an important question as to whether any of this new complexity has been worthwhile in relation to tangible outcomes. Furthermore, if the government’s reform objective was simplification, it is hard to see how this has been secured.

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:

- a lack of affordable and social housing;
- a lack of concern with health and wellbeing;
- the de-prioritisation of heritage and biodiversity;
- 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;
- the lack of sustainable transport infrastructure;
- the use of viability testing to water down plan policy requirements;
- a lack of basic social infrastructure; and
- complex and regressive taxation measures through Section 106 agreements and CIL.

Despite being strongly represented in the submissions to the Review, some of these problems are not yet verified or quantified by detailed research. So, while it is possible to identify a host of poor-quality design outcomes, we cannot be sure how significant these problems are, or if the quality of delivery is significantly worse than it was before 2010. The reduction in monitoring the outcomes of planning reform by central and local government is a major issue, and negatively impacts on our understanding of planning practice and how it might be improved.

EMERGING POLICY THEME 3: THE POWERS OF THE EXISTING SYSTEM

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 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 take into account. 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. Here, the evidence is incomplete because the government has undertaken no research into the impact of permitted development. Neither do we know, because MHCLG does not have the data, how many of the 317,000 housing units consented in 2017 have come through the permitted development route. The Review is gathering 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 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 recent publication a review of permitted development by RICS (the Royal Institution of Chartered Surveyors)⁶⁵ significantly increases the evidence base on the extent of these concerns and begins both to quantify the lost contribution to affordable housing and from planning fees and to explore some aspects of quality. For example, only 30% of the units delivered through permitted development that were explored met minimum national space standards. It is significant that the recommendations of this research include a fundamental reconsideration of the policy around 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 2017⁶⁶ – 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.

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 development plan is another. This issue was explored in detail in the Review's Provocation Paper 1,⁶⁷ which laid 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.

It is highly 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 contrary to the plan, and how such outcomes can discredit public participation in plan-making 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 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 over the five-year land supply.

EMERGING POLICY THEME 4: THE BALANCE OF POWER BETWEEN CENTRAL AND LOCAL GOVERNMENT

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. At the time of writing, the locally led New Town Development Corporation proposals based on new secondary legislation had yet to receive parliamentary approval. The Review evidence includes suggestions on how Development Corporations might be expanded to deal with other major challenges, such as 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 spatial 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 this was how planning could be positively used for upland catchment planning to integrate the regulation of land uses 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.

It was perhaps inevitable that respondents from local government 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 local 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 deadline and sanctions over Local Plan preparation is another indication of this trend. It seems likely that the current period reflects a high watermark in this centralising tendency.

Because there has never been a clear constitutional settlement of powers between central and local government – in contrast to of 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 role in regional or national planning on key planning challenges such as housing delivery. In the absence of national programmes for new settlements and regional

EMERGING POLICY THEME 5: THE ENGLISH PLANNING FRAMEWORK

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 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 outcomes.

The Review received extensive evidence from organisations such as the Common Futures Network⁶⁸ 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.

Review Background Paper 2⁶⁹ made clear 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 Report on local government in England, published in 1969, which remains the last comprehensive reassessment of the principles and structures of local government. The conclusions of Redcliffe-Maud Royal Commission⁷⁰ 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 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, reflect the failure of the Royal Commission to match their understanding of economic geography with a grasp of political reality. Subsequent changes to local government created the confused legacy we now have. The only serious attempt to deal with the strategic regional question came with proposals for elected English regional administration 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 an example of what can be achieved.

The core problem for the Review team is that developing sensible planning structures for English local government is not easily reconciled with the current structure. 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. The challenge is to try to work with the grain of the highly complex and confused way in which England is governed.

EMERGING POLICY THEME 6: THE POWER OF LOCAL COMMUNITIES

One of the major challenges for the Review is to reach out beyond the ‘insiders’ in the planning system to communities and individuals who are the ultimate consumers of the system. The feedback from the community sector so far has been very strong and mostly very negative about planning practice. To date, the input has mainly come from established groups who might be expected to have the resources to engage effectively. Respondents have raised concerns over barriers to participation and have reported a variety of issues:

- the power of developers to exploit the system;
- complex language and procedures;
- a lack of support in responding to planning applications;
- unequal legal rights in the decision-making process;
- 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;
- difficulty in engaging with plan preparation processes, and anger that consultation responses are not taken seriously;
- concern about the quality of development;
- anger that Neighbourhood Plans can be overturned;
- concern about making the voice of the public heard in the nationally significant infrastructure projects process;⁷¹ and
- anger at the perceived ‘purchase of planning permission’ through Section 106 agreements.

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 disconnect between the values and practice of planning and the communities it serves.

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.

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. These concerns extended to build quality, space standards, and wider place-making. A concern was raised 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.

EMERGING POLICY THEME 7: THE COLLECTION OF BETTERMENT VALUES THROUGH FAIR LAND TAXES

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. While there is tremendous policy 'noise' around the issue and a good deal of interest from all sectors, including government, there is as yet no consensus in the evidence about the extent to which land values might be captured. In short, while there is wide agreement on the principle of a fair distribution of windfall payments which landowners receive, there is no consensus on the level of value to be recouped, nor on a mechanism through which this might happen. At this stage, it is important to note that the issue cannot be avoided, and the Review will need to develop an outline approach. Of all the issues addressed by the Review, land value capture is probably the most difficult, since it directly impacts on the interests of landowners. A full discussion of the betterment tax question is contained in Review Provocation Paper 3,⁷² including a more detailed justification of the approach suggested in Section 6.

CONCLUSIONS

The evidence received by the Review is extensive and complex, but it confirms the need to ask fundamental questions about what the purpose of the planning system is meant to be and how the system might work. Less reassuring is the complexity and controversy which surround many of these problems. 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 about these problems. 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.

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- 64 Live Table 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.
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SECTION SIX

REIMAGINING THE PLANNING SYSTEM

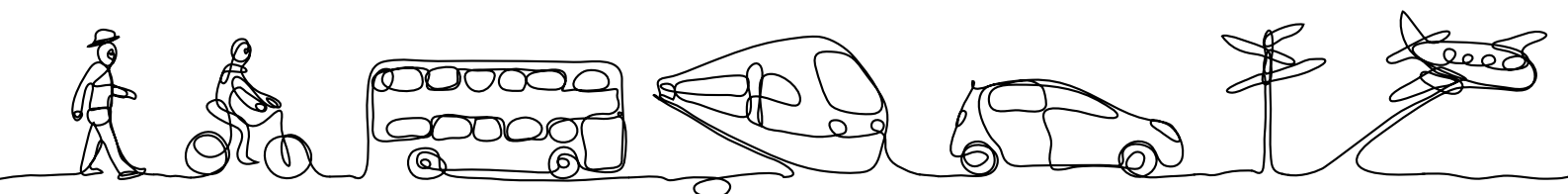
While the Review team is still considering the extensive evidence received, it is also beginning to explore the solutions that will inform the recommendations of the Final Report. Here, the dilemma is between what is logical and what may be politically feasible. This dilemma applies to considerations of mechanisms for capturing betterment value, to ways of clarifying the 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 understanding, which is why this Section focuses on asking why 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 broad framework for the Review set out in its terms of reference (see Annex 1) and the complex evidence received, it seems clear that the Review has to address a number of basic questions which define the direction of reform:

- What is the justification for a spatial planning system in a market economy?

- What is purpose of a spatial planning system, and how should this be expressed?
- What should the scope and powers of the spatial planning system be?
- What should the governance arrangements for these structures and institutions be, and 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?
- Can we simplify the legal structures of planning?
- What institutional structures are required to support spatial 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 the system?

This Section examines each of these questions and offers consequent provisional propositions which will inform the direction of the Final Report.



QUESTION 1: WHAT IS THE JUSTIFICATION FOR A SPATIAL PLANNING SYSTEM IN A MARKET ECONOMY?

Commentary

Section 5 set out an indication of the conflicting views on the justification and purpose of planning, with, crudely, two divergent views. The first is that planning's purpose is to facilitate the private market through a residual form of land licensing in order to support 'growth'. The second view is that planning was designed to regulate the market to achieve long-term public interest objectives surrounding 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.

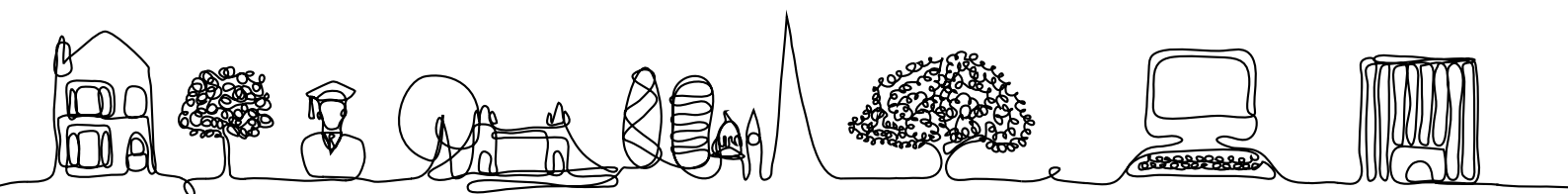
The absence of a clearly expressed rationale for planning underpins a fluid and often conflicted approach in government over the value of planning as an instrument of public policy. In recent years this conflict has been reflected in the tension between the 'growth' and 'sustainable development' paradigms. The adoption of each paradigm leads to very different spatial planning systems, each requiring careful justification. Based on the evidence so far, 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 correct market failure in the wider public interest.⁷²

- There are real challenges confronting society which require practical solutions across differing spatial scales and with sufficient powers to be effective. These challenges change over time but are dominated by demographics, climate change, and technological change. There is no evidence that the market alone can deal with these challenges.
- The system must work within the context of a mixed economy in which the private sector plays a major 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 is assumed to work within the grain of our existing democracy and civil rights and to remain focused mostly at the local authority level.

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 the inability of market mechanisms alone to deliver a full range of public interest outcomes, and on 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 IS THE PURPOSE OF A SPATIAL PLANNING SYSTEM, AND HOW SHOULD THIS BE EXPRESSED?

Commentary

Accepting that there is a justification for the regulation of land and the built environment, the question remains as to the values that should guide policy 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.⁷³

Providing a robust operational definition of sustainable development is difficult, as illustrated by the way that the term has been applied by the government in the current NPPF, which involves disconnecting the core policy principles in the 2005 UK Sustainable Development Strategy⁷⁴ from the operational principles of planning. In the same way, the draft revised NPPF does not imbue the United Nations' Sustainable Development Goals, despite these objectives being referenced in the government's 25-Year Environment Plan. This matters because it results in the removal of important principles (both in terms of equality outcomes and in relation to process metrics) such as the precautionary principle. The NPPF does refer to the 2005 UK Sustainable Development Strategy in the opening paragraph, but then makes clear in paragraph 6 that the operational principles of planning are expressed in paragraphs 18-219. This neatly bypasses any meaningful consideration of the Sustainable Development Strategy in planning decisions. 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, 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 paragraphs 18-219 connect with the substantive and procedural elements of the 2005 UK Sustainable Development Strategy.

It is significant that the intellectual underpinning for the practice of sustainable development in planning was clearly articulated in the relationship between the UK's 1999 Sustainable Development Strategy and the now revoked Planning Policy Statement 1 (PPS1) of 2005. Unfortunately, PPS1 was published weeks before the publication of the updated and more effective 2005 UK Sustainable Development Strategy, which consequently never found detailed expression in national planning policy. That leaves us with a significant gap in the sustainable development narrative, and the task of reconnecting planning practice to a meaningful set of operational principles.

There is an extensive conversation about this in the planning literature, focusing on, for example, ideas around 'just sustainability'.⁷⁵ There are also significant expressions of the concept through international agreements, most notably the UN Sustainable Development Goals.⁷⁶ 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 on sustainable development set out in the UN Sustainable Development Goals. The government has helped us in this by making clear in the 25-Year Environment Plan that there is a cross-departmental commitment to ensuring implementation of the Sustainable Development Goals, 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.

The UK Sustainable Development Strategy⁷⁷ remains government policy and provides five overarching principles which have direct relevance for planning practice. In describing the principles, 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.
- **Using sound science responsibly:** Ensuring policy is developed and implemented on the basis of strong scientific evidence, whilst taking into account scientific uncertainty (through the precautionary principle) as well as public attitudes and values.
- **Promoting good governance:** Actively promoting effective, participative systems of governance in all levels of society – engaging people's creativity, energy, and diversity.

Given the absence of an overarching legal purpose for the planning system it would seem logical to explore how these objectives could be enshrined 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. Instead, it is left to the Secretary of State to define the meaning in policy. 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 basic purpose of planning is to improve the wellbeing of people by creating places of beauty, convenience and opportunity. 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. This objective is articulated in the United Nations' Sustainable Development Goals and in the 2005 UK Sustainable Development Strategy. This objective should be set out in a statutory purpose for the system and in supporting policy. The statutory purpose of planning should be as follows:

The purpose of planning

The purpose of the planning system is to positively promote the spatial organisation of land in order to achieve long-term sustainable development. In the Planning Acts, 'sustainable development' means managing the use, development and protection of land, the built environment and natural resources in a way, or at a rate, 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.

QUESTION 3: WHAT SHOULD THE SCOPE AND POWERS OF THE SPATIAL PLANNING SYSTEM BE?

Commentary

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. Spatial planning is concerned with the broad interrelationship between people and their environment. 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.

The powers of planning

To be effective, planning powers must be comprehensive and must relate, with minor exceptions, to the use and development of all land and property. The evidence is clear that planning has, in practice, lost many of these powers. It is worth noting that these basic development management powers, with the exception of power over agricultural land use, remain intact but have been reduced by creating exemptions to the powers rather than removing them. In considering the kinds of powers which an effective system would need, there are three issues to address:

- the restoration of development management powers which have been lost as a result of the extension of permitted development rights and the introduction of prior approval;
- the extension of planning's remit to deal with specific challenges such as demographic and climate change; and
- clarification on the weight of the development plan, and the construction of a meaningful plan-led system – since the plan should be the expression of community aspirations and the instrument for the co-ordination of growth by creating certainty, settling the status of the plan is vital pre-condition to effective planning that can command public confidence.

Choosing the right geography

Spatial planning must also be able to deal effectively with challenges to society presented by the evidence of issues such as demographics and climate change. The impacts of these issues 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. To be effective, planning must be able to deal with this reality. It has also to be flexible enough to reflect the diversity of people and places in England.

Planning for the right timescales

Most planning in England is conducted on a maximum 15-year time horizon. This simply makes planning for demographics, infrastructure and flood risk much less effective. Spatial planning must be capable of long-term thought processes.

Proposition 3: A powerful, people-centred planning system

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.

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 both the restoration of development management powers over the conversion of buildings to homes under permitted development and the creation, for the first time, of a genuinely plan-led system which can deliver co-ordination and certainty to developers and communities.

QUESTION 4: WHAT SHOULD THE GOVERNANCE ARRANGEMENTS FOR THESE STRUCTURES AND INSTITUTIONS BE, AND 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. The current debate focuses on the opportunities surrounding 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 concerns about the limitations of such 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 2⁷⁸ noted the lack of any policy statement which sets out the government's position. It also 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 when resources are constrained and a less legally powerful public sector is no longer perceived to protect the public interest – and where support services for communities on planning applications and Local Plans have been reduced or removed.

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

- **Clarity over the role of different democratic models:** An example here is 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 which 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.
- **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 solely focus on processing times, but should also reflect the need for building community participation. Similarly, planning education must ensure that planners are skilled at communicating, listening and mediating in planning decisions.

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 renewal, including clarity on the balance between representative, direct and participative democracy;
- 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, there was real concern 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 needs of those in greatest need of a decent home. As a result, Proposition 5 seeks to explore how decent minimum standards can be secured 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 might include:

- a right to a home;
- a right to basic living conditions to support people's health and wellbeing, secured through minimum design standards which meet people's needs throughout their lifetime; and
- a legal obligation to plan for the needs of future generations, through, for example, consideration of resource use.

QUESTION 6: CAN WE SIMPLIFY THE LEGAL STRUCTURES OF PLANNING?

Commentary

Simplifying planning legislation

Planning powers and structures are framed in planning legislation which 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 through the amendment of schedules (neighbourhood planning) or through a single enabling clause in primary legislation which then facilitates the creation of new 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 regimes from the nationally significant infrastructure projects regime created by the 2008 Planning Act. While opinion differs on the nationally significant infrastructure projects regime's success, the legal relationship between the two regimes remains unresolved. The 2008 system enables the preparation of sector-focused National Policy Statements with a powerful legal status, but no clear mechanism for the integration of these NPSs 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 benefits 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.

Creating a logical planning framework that reflects our functional geography

The integration of the nationally significant infrastructure projects (NSIPs) regime with the town and country planning system would enable the system to deal with one of the primary ambitions of the Review, namely 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;
- sub-region/city-region; and
- national.

Operational planning would remain substantially local, with the majority of decisions being based on the local development plan. One further key component of the structure of planning would be the systematic use of Development Corporations to deal with issues of strategic importance. The remit of these bodies would require reform to allow them to be used not just for the creation of new communities and regeneration, but to address the sub-regional impacts of flooding or coastal change.

There are a set of further questions on the relationship, governance and respective powers of these tiers of planning and the plans they produce which might form the focus of discussions prior to producing the Final Report. 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 action to be taken by special delivery vehicles would be identified. Local Plans would benefit enormously from working within a context of agreed investment priorities and data sets, and from the work of Development Corporations in dealing with major planning challenges beyond the capacity of, for example, a single local authority.

Proposition 6: Simplified planning law

There is a powerful case for a simplified, consolidated and integrated Spatial 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.

The structure of English planning should be composed of four spatial scales (neighbourhood, local, regional, and national planning), supported by the deployment of modernised Development Corporations to deal with particularly demanding issues such as flood risk, economic renewal, and population change. While the majority of decisions should remain with local planning authorities, regional and sub-regional planning will require renewed clarity on which institutions will be planning at this scale and the remit and governance arrangements that they should have.

QUESTION 7: WHAT INSTITUTIONAL STRUCTURES ARE REQUIRED TO SUPPORT SPATIAL PLANNING?

Commentary

Suggesting a spatial 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 for the foreseeable future. At the local level the institutions of planning are well established, and our expectation is that the exercise of the majority of planning functions will rest with local government. 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 the National Infrastructure Commission, the Infrastructure and Projects Authority, Local Enterprise Partnerships, and regional transport bodies, but many of these bodies have no formal relationship with the statutory planning system. This dysfunction has been part of the key motivation for the Common Futures Network proposals on national planning.⁷⁹

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, and those that operate effectively as commercial development agencies (the Crown Estate). 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. At 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 committees, and other less formal groupings of local authorities. London, of course, has its own regional planning structure. There is a powerful case for trying to bring some order to this 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 housing as a shared ambition across the planning and development sector. The question is how to achieve such 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 would aid delivery.

QUESTION 8: 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 has explored, betterment taxation has proved, understandably, the most difficult area 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 can make a significant contribution in making these issues more transparent, but it faces a challenge in supporting the logical conclusion that a much greater share of betterment should be secured for public benefit when such a suggestion is so deeply controversial among landowners.

While this is an area that will receive further detailed examination by the Review team, the initial conclusion is to support not a single betterment tax or charge (the 1947 model) but instead a range of 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 current-use value to facilitate large-scale development. The second is the popular suggestion of consolidating the Section 106 system and perhaps even folding the Community Infrastructure Levy back into such a system. No adequate solution has been found to deal with the regressive nature of this system, and so the concept of an element of betterment taxation in capital gains tax, with a redistributive element, remains the third component of such a system. This final measure was part of the tax regime until 1985.

Proposition 8: 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 is exploring three related options:

- measures specific to large-scale growth implemented by Development Corporations and local planning authorities;
- a reformed Section 106 and Community Infrastructure Levy process; and
- an element of betterment taxation, as part of capital gains tax, which should be directed towards regeneration in low-demand areas.

QUESTION 9: WHAT SORTS OF SKILLS, PRACTICE AND CULTURE DO PLANNERS NEED TO SUPPORT THE 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'. This was related to cross-sector concern about 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 then move into private practice or to leave planning altogether. This reflects the tension recorded throughout this Interim 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. As previously noted, the former task is like painting by numbers; the latter is like painting the Sistine Chapel.

There has also been feedback on the need for new skills and practices in terms of new technology and public engagement. There has also been a wider concern about a shortage of planning graduates and concerns about the changing nature of planning education and the future direction of the profession. Further questions have been raised as to whether the professional code of ethics for planners could be strengthened.

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 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 the ethical and professional boundaries and the values of the planner. The Review team intends to pay particular attention to these issues in its future work, and the following proposition reflects the priority that these matters deserve in reimagining planning.

Proposition 9: A new kind of creative and visionary planner

While a clear purpose and logical structures could do much to improve the planning system, the culture, skills 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 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 reform to the education, ethics and continuing professional development of planners, but above all it requires a system, supported by necessary resources, that values high-quality and inclusive outcomes as much as it values speed of performance.

CONCLUSIONS

This Interim Report has highlighted a planning system which has been subject to a bewildering scale of change. There is no sign of an end point to these changes, which are not always well understood by the wider public. The issue of real concern is that such changes do not appear to deliver high-quality outcomes for people. From the conversion of buildings on industrial estates to low-quality homes to the lack of national co-ordination of infrastructure and housing, England is now increasingly ‘un-planned’. And that matters for our collective future, given the scale of the challenges in areas such as housing and climate change that lie ahead. There is a choice confronting the nation between further incremental ‘tinkering’ with the system and the reimagining of planning in a way that delivers for the long-term welfare of future generations. Such a choice should be the subject of a 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 nine propositions set out in this Interim Report are the first small steps in that process. There is a tantalising prospect of simplifying planning regulation while increasing the system’s effectiveness. However, bringing logical structures and principles to a chaotic planning 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. 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 for an effective and democratic system to manage the future development of our communities and our nation.

References:

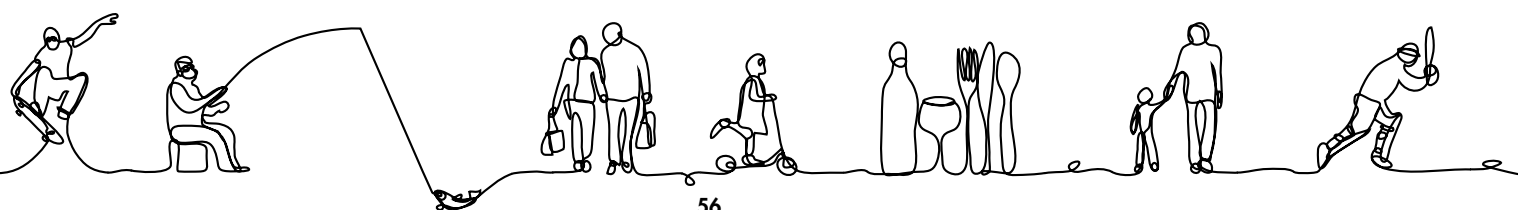
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ANNEX ONE

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 the 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 up 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 citizen 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.

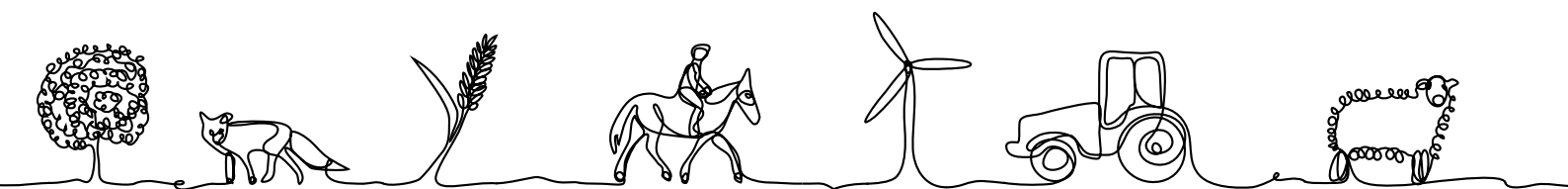


ANNEX TWO

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.

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| <p>1967 The Land Commission Act reintroduces betterment taxation, but at a lower rate than set following the 1947 Act.</p> <p>1968 The Town and Country Planning Act introduces Structure Plans and Local Plans.</p> <p>1964–70 Voluntary regional planning co-operation is established, most notably through bodies such as SERPLAN (the London and South East Regional Planning Conference).</p> <p>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 or appeals in planning.</p> <p>1970 The final New Town is designated, in Central Lancashire.</p> <p>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.</p> <p>1972 The Development and Compensation White Paper signals the end of ‘betterment’ taxation.</p> | <p>1974 The Land White Paper heralds the reintroduction of comprehensive betterment taxation through the Community Land Tax Act 1976.</p> <p>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.</p> <p>1980 The Community Land Tax is abolished.</p> <p>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.</p> <p>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.</p> <p>1985 The Budget announces the abolition of all development taxation.</p> <p>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.</p> |
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- 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.
- 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.
- 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.
- 1992** Planning Policy Statement 1 (PPS1) introduces ‘sustainable development’ as the key objective of the planning system.
- 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.
- 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.
- 1999** The Greater London Authority Act establishes powers for London, shaping a unique planning 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.
- 2002** 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.
- 2004** The Planning and Compulsory Purchase Act abolishes Structure Plans and introduces statutory regional plans (Regional Spatial Strategies) and Local Development Frameworks. The Act retained 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 failed. Statutory regional planning had an effective life of five years.
- 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.
- 2010** The publication of Open Source Planning by the Conservative Party signals a major shift towards deregulation, the abolition of Regional Spatial Strategies, and the introduction of Neighbourhood Plans.

- 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.
- 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 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 impact of the NPPF will be discussed in more detail in the Final Report, but the NPPF used policy to effectively undermine the statutory obligation for a plan-led system. The NPPF viability test also effectively empowered the developer of land to strike down any policy which compromised their development profit. The role of the public interest in planning is now unclear.)
- 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 NPPF. There is no requirement for any other form of Local Plan but there is discretion to prepare Local Plans and for Neighbourhood Plans.

