

Conservative Party: Planning Green Paper

A Public Sector Perspective



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Introduction

The Conservative Party's Planning Green Paper – Open Source Planning – has been published, proposing a move from what it describes as a “wholly negative and adversarial” planning system, to one that is “rooted in civic engagement and collaborative democracy”. The term open source refers to a concept defined by its values of transparency and free access. The Green Paper sets out plans to give local communities increased access to, and a greater roll in determining planning policy and development proposals.

If the Conservatives gain power they intend to instigate a “radical re-boot” of the currently “broken” planning system.

A New National Planning Framework

The Conservatives propose to abolish regional planning (with the exception of London) and regional house-building targets. This will be replaced with:

- a Parliament-approved National Planning Framework, together with the replacement of PPGs / PPSs with a series of short, focussed notes; and
- Local plans prepared through a mandatory process of collaborative democracy; i.e. actively involving local people. Planning Inspectors' existing powers to change local plans will be removed.

NLP Comment: A national Planning Framework isn't a new idea and is one that already exists for Wales and Scotland. This, together with focussed policy statements, is welcomed although

this has been promised on several occasions before but not delivered; in fact each time they seem to get longer! The abolition of regional planning is of most significance in terms of housing delivery and potential loss of strategic perspective for major retail and employment issues. The introduction of a new 'collaborative democracy'-driven 'local plans' to replace LDFs will give rise to the need for mandatory involvement of local people. The best suited model of collaborative democracy has, however, not been determined and will be subject to consultation. Involving neighbourhoods in developing local plans could further delay establishing plan coverage.

Transitional Arrangements

Arrangements to implement the new planning system will be put in place. The Conservatives intend to legislate to ensure that new local plans will be achieved within a reasonable time. During the transition, current local planning documents will continue, but local authorities will be able to undo unwanted planning policies which their Regional Spatial Strategy had imposed upon them.

NLP Comment: A commitment to speeding up policy formulation is welcomed, but experience shows an overhaul will take considerable time. A local plan that is not finalised in 'reasonable' time will be deemed to have an entirely permissive planning approach resulting in all planning applications being automatically accepted if they conform with national planning guidance. An imposed deadline and the

mandatory process of collaborative democracy could result in a significant amount of resources at a time when there is pressure on LPA's to cut expenditure.

A New “flexible zoning system” in Local Plans,

This amendment to the Use Class Order will allow changes of use without planning permission, if specified in a local plan.

NLP Comment: An interesting and potentially useful proposal although this would require LPA's to set out the range of acceptable land uses in all areas/streets within the local plan. The need for community involvement on this issue could result in local disagreement on acceptable land uses, increased NIMBY-ism and LPA's having to take a cautious approach; the practical considerations might therefore outweigh the potential benefits. LPA's may see this as a way of building in flexibility on large development sites or large areas with similar characteristics, e.g. shopping centres or business parks where individual design and other considerations are less sensitive.

Rights of Appeal

The Planning Inspectors' powers to change local plans will be removed, but they will be asked to report any breaches of national planning guidance and process. Rights of appeal on planning decisions will be limited to issues of process or the failure to properly apply local plan policies; but also creating a right of appeal for local residents.

NLP Comment: Removing Inspectors' powers to change local

plans is a return to former procedures and gives power back to LPA's, but this could result in more work rather than less for LPA's if the Secretary of State finds that a local plan breaches national planning guidance.

Limiting the rights of appeal reflects a desire to shift power to local communities. This requires local communities to have a fundamental understanding of the planning process. We have concerns about the workability of this approach in practice. Allowing local residents to appeal is likely to result in more appeals resulting from NIMBY-ism, but the mechanism for weeding out frivolous or malicious appeals is sensible. There is no detail on how this first assessment stage will be undertaken and by whom and could result in additional work for LPA's.

Local Infrastructure

Unitary or upper-tier authorities will be encouraged to take a strategic view and take the lead in compiling Infrastructure Plans (IP). The IP will set out how to deliver infrastructure consistent with relevant local plans. To assist the sharing of information, all LPA's and other public authorities will be given a Duty to Co-operate to ensure they consult all relevant parties.

NLP Comment: Legislating a Duty to Co-operate is a potentially useful tool and the open, free-sharing of information to all relevant parties should be encouraged. However, the 'two-tier' approach does raise concerns. No guidance is given on the geographical area IP's should cover and how adjoining area IP's will be coordinated. Abolishing regional planning and replacing it with a series of IP's could create a more disjointed infrastructure approach with less focus on the bigger picture.

New Presumption in Favour of Sustainable Development

There will be a presumption in favour of sustainable development, and it would be unlawful to refuse planning permission for development that conforms to the local plan, when accompanied by payment of the local tariff and, for larger projects, has been subject of a mandatory collaborative design process.

NLP Comment: In practice this presumption in favour may not make any real difference. Defining and applying tests of sustainable development definitively could be challenging and a likely area for legal challenge. LPA's will need to commit increased resources to producing local plans to ensure they accurately reflect how much development they want, of what kind and where. We have concerns LPA's will not be allowed to respond to development proposals expeditiously. Appropriate proposals may not conform to the local plan and could be shelved until a review of the plan.

Local Tariffs

The Community Infrastructure Levy will be replaced with a local tariff system to sit alongside S.106 planning obligations.

NLP Comment: This appears to be along the lines of what has been operating in Milton Keynes for some time and could be a more practical option than CIL which was conceived in a different marketplace. However, CIL started with the same objectives, and there is no evidence that the proposed approach understands why CIL ended up in the form it did, or how its complexity will be avoided.

Compensating Neighbours

Developers can reach a voluntary agreement to compensate immediate neighbours for amenity impacts in return for their support for development, so speeding up the approval process.

NLP Comment: It is not clear what this entails on top of rights to light which is already dealt with through existing legislation. Developments that have an unacceptable impact on residential amenity are currently refused. This could provide flexibility for developers and LPA's in ironing out planning objections but it could also be of concern if developers are held to ransom for fear of threat of third party right of appeal or Council Member backlash if local residents are not compensated. It could incentivise opposition to acceptable proposals.

Housing Delivery

These proposals seek to enable Local Housing Trusts (LHT) to bring forward development outside of

the local planning process, whilst providing council tax matching and planning obligation tariff retention incentives for local authorities to bring forward house building. National density standards would be withdrawn and gardens would no longer be classified as brown-field land.

NLP comment: Increased housing supply is based on the as yet untested proposition that fiscal incentives alone (i.e. carrot without stick) will be enough to promote positive planning - this may be true in some locations but not across the board, and could be undermined by the policy position of some authorities. The emphasis given to LHTs is not supported by any detail of their operational or funding parameters and reflects the trend of politicians mistakenly regarding delivery vehicles in themselves as a panacea to policy conundrums.

New Approach to Planning for School Development

This will include permitted development rights to change the use of any existing building to educational use, and a separate inquiry process for new school proposals.

NLP comment: This will be crucial to the delivery of new schools that will potentially compete with those of the Local Education Authority. Interestingly, the localism agenda does not apply here, giving a right of appeal to objection/delays imposed by local authorities. The likely barrier to new school provision will be in finding affordable land/premises that are capable of meeting the space standards required of schools (including for playing fields etc) - the unanswered question is how school providers will outbid other land uses and whether the normal space standards of DfSCF will be set aside.

Re-introduction of Retail Needs Test

The recently deleted needs test will be re-introduced together with enabling local authorities to take competition issues into account within local plans.

NLP Comment: We will be back to where we were on the needs test without the new system having time to bed in, so the change may not have a noticeable effect. An earlier draft Green Paper definitively stated that there

should be an additional competition test so there has been a softening of proposals here.

IPC Hardly Gets off the Starting Blocks

The Infrastructure Planning Commission will be abolished, but its expertise and fast-track application process will be retained. Major infrastructure projects would be determined either via Parliamentary Bill or by the Secretary of State following a focussed inquiry.

NLP Comment: This seeks to ensure decisions are made by democratically elected officials rather than the IPC, but helpfully, there is clear acknowledgement of need for greater speed for these projects.

Support for Killian Pretty

The Conservatives will further the Killian Pretty recommendations with other proposals to simplify the planning process.

NLP Comment: This is welcomed but it is not clear how desire for speed can be reconciled with the more specific initiatives outlined above, which may give rise to delay.

The Best of the Rest

New policies have been incorporated relating to parking (e.g. to delete all national parking standards and leave these to local discretion) and rural planning (e.g. new rules to prevent development on the most fertile farmland and land previously occupied by farm buildings would be classified as brownfield). The Paper also confirms that a Conservative government would "maintain national Green Belt protection, Areas of Outstanding Natural Beauty, National Parks, Sites of Special Scientific Interest and other environmental designations".

NLP Comment: Not many surprises here. Protecting Green Belt and other designations has normally received cross party support and local decision making on car parking reflects the localism agenda. We can expect to see some Councils' responding by relaxing parking constraints.

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