

Assessing the Government's Proposals to Reform the UK Planning System

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Abstract

This note discusses the UK government's proposed reforms to the land use planning system. It considers the case for reform and the extent to which the reforms are likely to meet their objectives. It then makes some suggestions on how the National Planning Policy Framework could be improved. It should be read alongside our companion evidence paper: 'What we know (and don't know) about the links between planning and economic performance'.

Introduction¹

The Government is seeking to reform England's planning rules. The current system involves:

- A hierarchy of planning policies – national planning policy statements; until recently regional strategies; and local development frameworks.
- Development control as the main mechanism for regulating local development.
- Section 106 (S106) as the main means of local value capture, complemented in 2010 by the Community Infrastructure Levy.
- Some national restrictions (e.g. Town Centre First Green Belts, Sites of Special Scientific Interest (SSSIs) and Areas of Outstanding Natural Beauty (AONBs)).

The Government's draft National Planning Policy Framework (NPPF) was unveiled over the summer of 2011. The main elements of the NPPF and associated reforms are:

- Significantly simplified national planning guidance.
- Devolved decision-making, with local authorities drawing up local plans via community consultation, subject to consistency with NPPF and fiscal incentives to encourage development.
- A presumption in favour of sustainable development, where this accords with local plans. If no up-to-date plan exists, the default answer to sustainable development should be 'yes'.
- Maintain all existing protected status – that is Green Belt, SSSIs, AONBs and also retain town centre first restrictions for retail development.

In parallel with the NPPF, the government are also introducing:

- A reformed Community Infrastructure Levy as the main means of value capture, while limiting use of S106.
- Financial incentives for new housing through the New Homes Bonus, and for commercial development via the Business Increase Bonus.
- A Localism Bill and wider proposals for reforming local government finance.²

Together, these reforms aim to localise the planning system at the same time as increasing rates of commercial and residential development. As we discuss below there are tensions between these two objectives.

Do we need reform?

Nathan and Overman (2011) document evidence that the UK planning system:

- Increases house prices (with a regressive impact on low to middle income families)
- Increases housing market volatility
- Increases office rents
- Lowers retail productivity
- Lowers employment in small independent retailers
- May not properly assess the true social costs of brownfield versus greenfield development.

¹ This section is taken from our companion piece on the economic costs and benefits of planning.

² See DCLG (2011a, 2011b, 2011c and 2011d).

Other costs of the current system are not well documented (e.g. the possible negative impact, via higher land prices, on land intensive manufacturing and wholesale distribution) but might be expected to be large. In short, the evidence suggests that the current English planning system imposes substantial economic, social and environmental costs, which need to be set against the system's benefits (for more on these benefits, see CPRE 2011, National Trust 2011 and many others).

For what it is worth, we differ on whether some of these costs outweigh their respective benefits. However, we are both very clear that those involved in the current planning debate need to be aware of all the evidence, and that pretending that the status quo is cost-free is not helpful.³ We also believe that while the Government's NPPF proposals have much to commend them, there are some important areas where they could be improved.

The overall direction of travel for the planning system is a decision for politicians, held accountable by voters. Clearly voters' opinions will differ and politicians need to balance these opinions. If, for example, you believe that the costs of the status quo outweigh the benefits, reducing these costs will require more land to be made available for development. Not all of this land could, or should, have been previously developed (partly because much brownfield land is in the 'wrong' place) so this will entail some building on greenfield land. You would be willing to make this trade-off because you do not believe that the broad social value of the undeveloped land that will end up being used is sufficient to outweigh the broad costs in terms of high house prices, increased house price volatility, high office rents, lower retail productivity etc. This corresponds to the personal position of one of the authors.

Even if you happen to disagree with this assessment of the evidence however, this does not mean that you should oppose a suitably revised National Planning Framework. The rest of this note explains why.

The basic principles of the NPPF

The objective of the planning system

Planning systems influence the level, location and pattern of activity. Most people, including the government, agree that the planning system should seek to promote sustainable development – that is, to balance economic, social and environmental objectives.

The NPPF calls for more use to be made of market price signals in the land use planning system. Because the current system effectively makes *no* use of price signals it is arguable that it downplays economic objectives in preference to other objectives. As Cheshire and Sheppard (2005) argue, however, it is important that decisions in a reformed system should not be made on the grounds of market signals in isolation, but should continue to reflect environmental and amenity values.

As we argue below, this means the NPPF should be *more* explicit about what sustainable development involves and should indicate how such judgements could be made in practice.

Localism is better than top down planning

³ See, for example, the CPRE quoted in <http://www.thetimes.co.uk/tto/business/article3168127.ece>

Ideally, decisions are best taken by the community most affected, and so the general principle of localism is the right one. The NPPF enshrines this principle by insisting on the use of local plans to underpin decisions about development. However, there are some classes of decision where it is harder to justify taking only local views into account. We discuss these below and consider the way that NPPF handles the conflict between local and national interest.

The presumption in favour of sustainable development

Because development involves large upfront fixed costs it is good if the planning system can help limit uncertainty. In addition, planning decisions can generate large ‘rents’ for those gaining planning permission to build. For both these reasons it is important that decision making is transparent and governed by clear rules. The current system is so complex that it does not meet these criteria. The NPPF achieves this by vastly simplifying the rules and by introducing a presumption in favour of sustainable development. Local bureaucrats and politicians will no longer get to say yes or no to development on a case-by-case basis. Instead, the presumption means that they have to say yes to things *that are consistent with their local plan*. Many other countries successfully run systems that are (at least) this permissive. But it is less clear that this principle can be brought in immediately, given that many local areas do not have current local plans (see below).

Localism and the national interest: the role of incentives

If, as this government does, you believe in localism then you have to give people a strong say in the development of their local plan to make the ‘presumption’ consistent with localism. The draft framework does this by giving neighbourhoods and local authorities a central role in drawing up local plans. However, in some cases there is an unavoidable trade-off between local and national interests. For example, the Government wants to increase housing supply in England and improve the UK’s strategic infrastructure. These are both national priorities – but ones which will affect specific local communities.

The government is taking two approaches to try to reconcile national and local priorities. The first is to retain some features of a top-down system by insisting that local authorities find ‘enough’ land for development. The second is to try to align local and national priorities by giving incentives to local communities to take decisions consistent with national interest. Specifically, the Government recognise that local authorities will need to be given incentives to agree to new development and have introduced a range of measures to provide these.

The case in principle

Overall, there are strong arguments that support the government’s overall approach to reforming the land use planning system.

Despite this, some people support the status quo. Even, amongst those that recognise the need to do something (e.g. about the affordability of housing) many object to the NPPF. We think that the NPPF could be revised to meet many (although not all) of these objections.

A revised NPPF

The NPPF needs a clear statement of the primary objective of the planning system

The planning system should seek to balance economic, social and environmental objectives. The NPPF needs to explicitly recognise that this is the primary objective, and to put in place a clear definition of ‘sustainable development’, the trade-offs this may entail in practice, and how such decisions could be made.

Happily, there is now a growing evidence base that would allow national and local planners to make decisions that properly take account of these objectives, using, for example, information on the value of natural amenities. We discuss the practicalities of this below.

The NPPF needs to clarify when localism trumps national interests (and vice-versa)

There is a basic tension in the Government's approach – between localism and achieving these national goals. As the National Trust have correctly pointed out in their response to the NPPF (National Trust 2011), the proposed reforms appear asymmetric on the extent to which neighbourhoods have power to affect local development. Specifically, local people can decide to allow more development, but not less.

Ministers need to address this problem. Generally, development imposes costs on existing residents to benefit non-residents. One possibility is for the government to overrule neighbourhood interests in the name of local interests and continue to allow upward only revisions to local plans. If you believe in localism, it is of course politically difficult to do this. A second possibility is to continue to allow upward only revisions to local plans but to clarify the ways in which the financial benefits from allowing development (which are paid to local authorities) will filter down to local neighbourhoods affected. A third possibility would be to allow upward and downward revisions to local plans, but this would likely require far stronger fiscal incentives at the neighbourhood level if plans are not to be consistently revised downwards by rational householders looking to protect their vested interest.

What happens in the absence of a local plan?

As outlined, there are very good reasons to prefer a planning system built around local plans with a presumption in favour of sustainable development that is consistent with the plan. One of the major problems, however, is that many local authorities do not have current local plans. The NPPF insists that where no local plan is present then the default answer to development should be 'yes'. There is a short term and a long term problem with this mechanism for dealing with the availability of a local plan.

The short term problem relates to both the absence of plans and the fact that all local authorities should be adjusting their plans to take in to account the new planning framework. The government needs to come up with an interim solution to this problem. The most sensible approach would be to allow the current system of planning consents to operate while local authorities are given a reasonable amount of time to draw up new plans. This may conflict with government desires to see construction-led growth (although we question the extent to which this is a feasible objective given current market conditions). In the long run, plans need to be kept up-to-date. But there is no need to do this through the 'threat' of unconstrained development. Other mechanisms, including financial sanctions could be used to ensure that plans are kept up-to-date.

Localism and the national interest: what if incentives are too small?

The Government's localism strategy relies heavily on incentives – nudging local communities to decide on actions that collectively meet national objectives. Whether these incentives will be large enough in practice to achieve the goal of raising levels of *national* housing supply is still open to debate, and some commentators have already suggested doubling the size of the New Homes Bonus (Larkin et al 2011). We agree that there are serious concerns that the incentives may be too small. Early evidence on housing starts since the announcement of the NHB are consistent with these concerns.

One way the government can address this problem is to increase the overall incentive to develop by allowing local authorities to retain a larger, rather than smaller, share of business rate growth. A decision on this is due in the coming months. The government also needs a set of mechanisms in place for reviewing the full package of incentives and the extent to which current fiscal incentives are proving effective and to allow for adjustment if necessary. Any review process will have to carefully balance the need to create appropriate incentives with the fact that uncertainty will dampen the effect of any given level of incentives. There are a number of possible options. At a minimum, the system should ensure no retrospective revisions on development already approved. Another alternative would be upward only revisions subject to a more general review occurring, say, every five years. Longer term, other mechanisms could be considered such as land auctions, which offer stronger incentives for development *and* a more transparent process (Leunig 2007).

Land restrictions and the definition of sustainable development.

The NPPF continues to impose some centralised restrictions on land use – most obviously in the case of the Green Belt and Areas of Outstanding Natural Beauty (AONB). The long standing ‘town-centre first’ policy will also be maintained for the retail sector. In the draft version, there is no intention to have national brownfield targets, although the government is coming under sustained pressure to (re)introduce a ‘brownfield first’ criterion.

For AONB and some other designations, it is clear that the government has decided that national interests strictly overrule local interests. For greenbelts, town-centre first and brownfield first policy the case for a one-size fits all policy is far less compelling. Indeed, we would argue that the NPPF should take a more flexible approach, explicitly permitting cities to develop local brownfield and town-centre strategies if desired, via consultation with local people. We recognise that substantial changes to greenbelt policy are unlikely to prove politically expedient given the current popular debate.

Once again, however, this is an area where local interests may conflict with national and the NPPF needs more detail on how these should be reconciled. One possibility would be for government to propose a set of indicators that local authorities could use when developing their town centre and brownfield plans. These indicators could reflect the exchequer costs of e.g. the provision of infrastructure for greenfield development as well as the environmental and social value of different types of land (already available from the National Ecosystem Assessment).⁴ Local authorities would then be able to draw up their own land use restriction policies using these indicators and other local information. This approach might also help operationalise the concept of whether or not a given development is sustainable. Because such an approach recognises that what constitutes sustainable development might differ depending on local context we think it would be preferable to the alternative – which would use current planning assumptions about what is sustainable to issue national guidance on what is meant by sustainable development (not least because the NPPF is trying to get away from this national guidance approach to planning). A more radical approach might be to reform the planning system further to use these base line indicators to develop impact fees that could be levied on new development.

⁴ See <http://uknea.unep-wcmc.org/> and (Gibbons et al 2011). This could include guidance on the shadow price of carbon.

Opponents of the NPPF may want to skew development further in favour of brownfield land. They should be encouraged to bring forward costed proposals that explain how this might be achieved. Some of these may involve removing existing distortions, such as the significant differences in VAT levied on refurbishment as opposed to new build development. These proposals could then be embedded within the NPPF and, once again, local authorities allowed to choose the most appropriate land restriction policies in light of these brownfield incentives.

Conclusions

We believe that there are strong arguments in favour of the overall approach to land use planning as advocated by the NPPF. The NPPF proposes a planning system where local plans are drawn up in consultation with local communities subject to a set of incentives that balance economic, environmental and social objectives. It then allows development that is consistent with the plan.

The status quo has both benefits and substantive economic and social costs, as we point out in the evidence paper that accompanies this one (Nathan and Overman 2011). Those opposing planning reform should acknowledge these costs of the current system – rather than, as some have done, denying that they exist. This said, the NPPF and wider proposals for planning reform have room for improvement, and we find common ground with other voices here. We have highlighted several crucial issues:

- The NPPF needs to explicitly recognise that the primary objective of the planning system is to balance economic, social and environmental objectives. The Framework should set out a clear definition of sustainable development, acknowledge potential tradeoffs and give guidance on how practical decisions might be made (e.g. through use of carbon prices and the National Ecosystem Assessment)
- Most planning decisions are best taken by the community affected, and so the general principle of localism is the right one. But in some cases, there are local *and* national dimensions to a decision. There is a basic tension between localism and some national objectives, which the NPPF does not properly acknowledge or resolve. Either ministers need to be clear about when and why national interests trump local and local trump neighbourhood or they need to provide stronger incentives to align neighbourhood, local and national interests.
- The presumption in favour of sustainable development that is consistent with the plan should be retained. But it should *not* be used as the mechanism to ensure that plans are up-to-date. Interim measures are also needed, while all local authorities up-date their plans to take in to account the new national framework.
- It is not clear that current incentives will be large enough to achieve national objectives in terms of delivering more land for development. The government needs to explain how it will review and update incentives if necessary. Ironically, while we favour more development, we support the proposals in the NPPF *despite* the fact that we think it is highly likely that they could lead to less not more development in the short to medium term.

- The case for one-size fits all land restriction policies (e.g. town centre or brownfield first) is not compelling. Instead, the government should adopt an approach in keeping with the localism spirit of the NPPF by setting the appropriate framework to try to encourage particular patterns of development but then to allow local authorities to develop their own land use restriction policies. We think such a framework should take the form of a set of baseline indicators that highlight the environmental and social costs of different types of development. This could also form a basis for helping assess whether or not development is sustainable. We think this would be preferable to alternative approaches which would impose national guidelines on land use restrictions and the definition of sustainable development. If opponents of the NPPF want to skew development further in favour of brownfield sites they should bring forward costed proposals that could form part of the framework within which local authorities draw up their policies.

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