

‘Planning for the Future’ White Paper—a radical version of the current system

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Planning analysis: Katherine Olley, barrister at Landmark Chambers, discusses the government’s ‘Planning for the Future’ White Paper (the Paper), looking at the main proposals for change and their key problems.

The Paper heralds a reform of ‘the entire corpus of plan-making law’ with the aim of ‘re-discovering the mission and purpose’ of the late Victorian and early 20th Century builders.

What are the main proposals for change?

The proposals feature three ‘pillars’: planning for development, planning for beautiful and sustainable places, and planning for infrastructure and connected places. They cover plan-making, development management, developer contributions and other related policy proposals. The community infrastructure levy and planning obligations would be consolidated into a single ‘infrastructure levy’ to be set nationally as a percentage of development value and to be paid at the point of occupation rather than commencement and payable also on permitted development.

A major aim of the proposals is to establish a clearer and more predictable basis for the pattern and form of development in an area. The Paper therefore proposes a new role for local plans and a new process for making them. To do this, the existing primary and secondary legislation would be replaced.

What are some of the key problems of the proposals?

The length of time that it currently takes to get an up to date local plan in place (an average of seven years) is identified in the Paper as one of the main problems hindering the planning system as it stands. Secondly, the length and complexity of local plans themselves—sometimes nearly 500 pages long. Also, their underpinning by ‘vast swathes’ of evidence base documents which are sometimes at least ten times the length of the plan itself and can become dated very quickly and are not easily readable or understandable by everyone.

How does the Paper propose to tackle these problems?

The role of local plans would be simplified by having the focus on identifying land within three categories:

- ‘Growth’ areas suitable for ‘substantial development’ (to be defined) and, on adoption of the plan, automatic outline approval for specified forms and types of development
- ‘Renewal’ areas, which would be suitable for some development such as ‘gentle densification’
- ‘Protected’ areas such as green belt, areas of natural beauty, conservation areas and gardens, with more stringent development controls. All land would be put into one of these three categories and the hope is that this could halve the amount of time it takes to secure planning permission on larger sites identified in plans

As with all the proposals in the Paper, less or even more radical options are also mooted. For example, there could instead be a more binary model which would combine the Growth and Renewal areas into one category and extend permission in principle to all land in that area based on the uses and forms of development specified for each sub-area within it. Alternatively, automatic permission in principle could be limited to land identified for ‘substantial development’ in Growth areas and other areas of land left subject to the existing development management process.

There would be a 30-month process from start to finish, with sanctions by way of government intervention for those taking too long to complete. At examination, there would be a single test for the

Inspector of 'sustainable development'. Sustainability appraisal, strategic environmental assessment and the duty to cooperate would all be abolished. There would be a five stages in total, comprised of a call for suggestions for the areas to be placed within the three categories of Growth, Renewal and Protected, a 12-month period for the local planning authorities (LPAs) to draw up its proposed plan and produce the evidence necessary to inform and justify it, a six-week stage for submission to the Secretary of State with a statement of reasons and publication for public comment, a nine-month period for the planning inspector to consider whether the three categories shown were sustainable as per the new test, and finally a six-week period leading to adoption.

What are the most radical and fundamental ideas put forward?

Undoubtedly, the automatic grant of planning permission on adoption of a local plan for all the uses listed as appropriate in a Growth area. The rules for development would be set by the plan itself rather than through a separate application process, albeit matters of detail would still be delegated to officers as matters of professional planning judgment. Similarly, following the theme that local plans should set clear rules rather than general policies for development, the proposal that all development management policies would be set out in national policy rather than in each individual local plan. This would achieve the scaling back of the detail and duplication contained in local plans and hopefully encourage a much greater focus on design quality at the local level. In terms of the reduction in size of a plan as compared to the present, by 'at least two thirds' is the expectation. The plan would be 'stripped right back' to a map, a key, and text.

Other points to note are the emphasis on faster decision-making, with the time limits of eight or 13 weeks from validation to determination being firm, rather than aspirational and subject to extension, and possibly incentivised by providing for the automatic refund of the planning fee for applications not determined within the time limit or even deemed permission. Neighbourhood plans would be retained as an important means of community input and an important tool in helping to 'bring democracy forward' in the planning process, another key theme of the Paper, calling as it does for a radical and profound re-invention of the 'ambition, depth and breadth' with which LPAs engage with communities as they consult on local plans. The concept could be extended or adapted so as to cover even very small areas such as individual streets. There would be a new standard method (in relation to which there is a separate consultation ongoing) for establishing housing requirement figures, which would differ from the current system of local housing need in that it would be binding, in order to drive greater land release. The Housing Delivery Test and the presumption in favour of sustainable development would remain as part of the new system. The power of the Secretary of State to call in decisions would remain, as would the right of appeal for applicants against local planning authority decisions, but the hope is expressed that the greater certainty injected into the system generally would result in the need for fewer appeals to be considered by the Planning Inspectorate. There may be an automatic rebate of the planning application fee in the case of a successful appeal.

In terms of how likely it is that the proposed changes will be implemented as proposed, of course it cannot yet be known how many of the proposals will persist in their current form after the consultation process. However, government appetite would appear to be very strong, and it is notable that the Prime Minister himself wrote the foreword to the Paper. Reaction to the philosophy behind the Paper has also generally been positive and the proposals, if enacted in their current form, surely stand a good chance of meeting their stated aim of simplifying the planning system and making it more fit for purpose. The questions that have so far arisen in the industry have rightly focused on how the detail of the proposals will be worked out in practice. For example, how LPAs might resource a significantly increased front-loading of the system. The aim of the Paper was not to set out the detail but to focus on 'big ideas about big things'. Change will in any event be a significant way down the road, and it is clear that there can be no 'downing of tools' in the meantime in terms of development management and plan-making.

Interviewed by Marie-Gabrielle Williams.

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