

**Open Source  
Planning Green  
Paper**

**DLP BRIEFING NOTE 16**

Prepared by  
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## **'Open Source Planning' Green Paper**

The Green Paper (**Open Source Planning**) is the Conservative Party's concept for the future of the planning system in England if they are elected, and follows the publication in 2009 of the policy papers, Control Shift and Strong Foundations, which outlined the party's thoughts on, respectively, decentralisation and housing. Before summarising the content of the Green Paper, it is worthwhile recording that this is a consultation paper published by a political party ahead of a general election. There is no guarantee that the principles advanced will come into effect, particularly so given the radical nature of many of them, but the very fact that the changes identified are radical should give an impression of how seriously the Conservatives are advocating a need for change.

The Paper starts by claiming the current system to be "broken" and a radical solution is needed to address this, which they have termed '**open source planning**'. This they explain by stating, "we want to create a planning system where there is a basic national framework of planning priorities and policies, within which local communities can produce their own distinctive local policies to create communities which are sustainable, attractive and good to live in."

Associated with this is the Party's vision of enabling communities to find their own ways of addressing the perceived tension between development and conservation, and as such becoming proponents, rather than opponents of growth.

The three tenets of the paper can be summarised as:-

- restoring democratic and local control;
- favouring sustainable development; and
- producing a simpler, quicker and cheaper system.

## **National and Strategic Planning**

A national framework setting out environmental and economic priorities would be published. A time for this is not given, but this would include a reduced number of simplified guidance notes that set out standards for sustainable development (environmental, architectural, design, economic and social standards are specified). This national framework would be debated in both Houses of Parliament and would require their approval. There is no indication at this stage on whether or not there will be any spatial element to this framework.

Green Belts and environmental designations, such as AONB and SSSI would be maintained.

Regional planning would be abolished entirely; the Secretary of State may be given executive powers to revoke RSSs ahead of primary legislation. Emerging policy and draft legislation would permit local authorities to amend undesirable elements of the RSS (though the mechanisms for and effects of this are not discussed).

Although upper-tier authorities (e.g. County Councils and Unitary Authorities) will be encouraged to compile infrastructure plans, there would be no statutory policy framework between the national policy guidance and local plans.

London is seen to be different from the regions, and further devolution to the Mayor and Assembly is briefly mentioned as being a possibility.

The Infrastructure Planning Commission would be abolished, although its expertise and processes would be retained, but with the final decision on major projects (e.g. power stations) to be taken by a Minister, within a set time limit and following consideration through a public inquiry that will focus on planning issues.

Major linear projects (e.g. high-speed rail) would be promoted through their own Bills. The paper criticises the recently devised National Policy Statements, and comments that these would be integrated into the system of national planning guidance.

### **Local Planning**

The current concept of Local Development Frameworks will be abandoned. New local plans would be created from the bottom-up ('collaborative democracy' is repeated throughout the paper). It is explained that the starting point is 'ground level', i.e. every resident within a neighbourhood (the term encompasses 'villages, towns, estates, wards or other relevant local areas') will be approached to take part. A local authority will provide background data and evidence as well as assisting neighbourhoods preparing their own plan 'modules'; the authority will then incorporate together these modules into a local plan.

The role of Inspectors would change, with little or no power to rewrite local plans, instead reporting to the SoS on any direct breaches of national planning guidance and process. If the plan is found to not comply with the framework and guidance, or to be not appropriately spatial (with regard to neighbouring authorities' plans), it will be for the local authority to amend and resubmit the plan, rather than the Inspector to alter its content.

There would be no top-down housing targets from central or regional government; instead housing figures will be derived locally in accordance with best practice guidance. The SoS will not be able to change the magnitude of these derived targets, but if an Inspector advises that the due process was not adequately undertaken, the local plan may be rejected.

If a local plan is not adopted within a given timeframe, legislation will decree a presumption in favour of all sustainable development, i.e. proposals that comply with the national guidance and framework.

### **Development Control**

Significantly, a presumption in favour of sustainable development will be established. This is explained as, "the presumption will be that individuals and businesses have the right to build homes and other local buildings provided that they conform to national environmental, architectural, economic and social standards, conform with the local

plan, and pay a tariff that compensates the community for loss of amenity and costs of additional infrastructure.”

Councils will draw on national standards to determine what development is sustainable in their area. Following a ‘sign-off’ from the SoS on a local plan (and with it the local definition of sustainable development), the plan will be contestable through Judicial Review of the SoS’s actions only. It is worthwhile quoting from page 11 of the Paper, “our emphasis on local control will allow local planning authorities to determine exactly how much development they want, of what kind and where. But unless they use their local plans to rule out particular types of development in specific areas, the planning system will automatically allow applications to be approved.”

In order to decrease the number of planning applications being made, it is proposed that the Use Classes Order would be amended so that the local plan can allow changes of use to any purpose that it sees fit. This as explained will, “allow councils to specify in their local plans the kinds of use that they are content to permit for the buildings and land in each given part of their area.”

The Party also wishes to quicken the approval process for developments that a ‘significant majority’ of the immediate neighbours do not object to; this is intended to give developers the incentive to design buildings that neighbours would welcome or to reach an agreement to recompense neighbours for loss of amenity.

The right to appeal against a refused application will become more limited, but significantly third party appeals, in certain circumstances, would be introduced. The grounds of appeal for third parties would be twofold:-

- “that correct procedure was not followed in assessing the application” (to be dealt with by the Local Government Ombudsman) or,
- “that the decision reached is in contravention of the local plan” (dealt with by PINS).

In addition, there would be two stages designed to weed out frivolous or malicious appeals- presumably by third parties- to delay development.

Incentives, mostly financial, would be offered in return for councils and communities welcoming development, for example a **Matching Fund** from central government would provide the local authority with 100% of the annual council tax from each new dwelling annually for a period of six years (125% in the case of affordable housing).

Planning obligations will be revised so that they address only site-specific remediation / adaptation. A new local tariff will be introduced to replace the Community Infrastructure Levy and non-site-specific obligations. Most, if not all, development would attract the tariff at graded rates dependent on size. Some of this tariff would be passed on to the community in which the development is located.

The Paper also considers that the system it advocates would be more open and responsive, and would reduce the number and complexity of planning applications that

need to be assessed in detail by the LPA. However, it does seem to gloss over the myriad of material considerations and technical issues, that often need to be judged in any planning proposal. Instead it sees development as either being sustainable or not, and a scheme's compliance with a local plan being a clear-cut matter.

### **Collaborative Planning**

Firstly, it should be noted that public authorities and local authorities alike would be given the 'Duty to Co-operate', i.e. to share information and work together in an expedient fashion.

Collaborative design is also to be encouraged, whereby developers work closely with stakeholders- including the local community- in preparing their proposals. It should also be noted that the Conservatives wish to see developers and neighbours discuss schemes and even reach a voluntary agreement for the developer to compensate the neighbour in return for support, and allied to this a swift grant of consent. Otherwise, in circumstances where more than a small minority of neighbours object to a development, the local planning authority must assess the scheme in detail against the local plan.

The Paper also reinforces the concept of Local Housing Trusts whereby local communities decide what housing is needed within their area and accordingly promote, apply for, develop and retain those homes (including market, affordable, sheltered housing) for the local community.

### **Transition Arrangements**

Amongst these would be the ability for local authorities to reverse unwanted planning policies from the RSS and the assumption that 'Option 1 numbers' (those projected by local authorities during the RSS process) would form a base-line for calculating housing supply / need and a basis for housing figures until a local plan is adopted.

### **Other Issues**

Wind farms are generally encouraged.

The concept of conservation credits to improve biodiversity is supported.

Gardens would no longer be classed as brownfield land, and the perceived practice of garden grabbing stopped.

There would be an automatic right to change the use of any building to an educational use; all land in Use Class D1 would remain so unless the SoS for Children, Schools and Families said otherwise; new schools would be subject to short, focussed planning inquiries in an effort to speed up their delivery.

Mobile phone masts would require full planning permission.

The establishment of rigid targets for gypsy and traveller sites would be abolished but Councils would still need to provide sites for travellers, and would receive stronger enforcement powers.

A needs test would be reintroduced for retail applications.

Parking standards would be at local discretion.

Minerals Planning Authorities would regain the right to determine the amount of minerals required in a particular area.

Land previously occupied by agricultural buildings would be classed as brownfield to facilitate their use for other purposes (emphasis on economic uses).

There would be further investigation of permitted development rights, including the installation of domestic micro-generation (with even a presumption in favour applicable to listed buildings where this does not detract from aesthetic quality or architectural / historic interest).

### **Conclusion and Thoughts**

This briefing note does not set out to consider the pros and cons of the Green Paper, nor is there space to assess the implications of it. However the summary of the Green Paper's key points does serve to raise questions as to how the planning system will operate in the future (should the Conservatives win the general election), particularly with respect to fundamental issues such as housing, climate change, economic growth and environmental sustainability.

DLP Planning would be pleased to discuss the implications of the above for your business and how to manage the change should the provisions outlined come into being. Furthermore, our monitoring of emerging policy and legislation and experience in making representations thereon, make DLP the natural choice to help you make the planning system effective for you.

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