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PLANNING REFORM UNDER LABOUR



Never before has so much ink been spilt – or, at least LinkedIn electrons excited – on a set of embryonic planning reforms. Not, at least, since the publication of the last round of “once in a generation” planning reforms to streamline and modernise the planning process set out in the Planning White Paper, by Boris Johnson’s Government in summer 2020.

Much of that ink has been spilt on the until-now hallowed grounds of the Green Belt along with the eternally contentious Standard Method for calculating housing need, and house building generally. But there are other areas of significant change afoot in Labour’s proposed amendments to the National Planning Policy Framework (‘NPPF’), the detailed consultation document that sits alongside it, as well as the speeches from both the Deputy Prime Minister Angela Rayner and the Chancellor of the Exchequer, Rachel Reeves, and the former’s Written Ministerial Statement. If pursued, these could have effects that span sectors and uses beyond housing.

Our commentary on the changes deliberately starts with those other areas of change.

MEETING THE NEEDS OF COMMERCIAL DEVELOPMENT

For England’s urban areas and city centres, there are alterations of significance outside of housing. The introduction to the consultation sets out the challenge for every local authority to “**rapidly create a clear, ambitious local plan**” not just “for high quality housebuilding” but also for “**economic growth**.” Angela Rayner’s Written Ministerial Statement confirms “**with respect to commercial development, the Government is determined to do more to support those sectors which will be the engine of the UK’s economy in the years ahead.**”

A welcome requirement to identify sites that “**meet the needs of a modern economy**” in emerging local plans is proposed, strengthening the emphasis given to commercial development.

Coverage of this topic has suggested this is focused on finding sites for labs, gigafactories and data centres. The text of the consultation does refer to the desire to provide “**particular support**” to those “**key industries**”. But the draft NPPF text itself is clear these are examples of the sorts of uses that should be accommodated, not an exhaustive list; the effect would be greater support for modern commercial development generally in plan making.

This is made even clearer when considering decision making – provision should be made for **“new, expanded or upgraded facilities and infrastructure”** that are needed to support knowledge, data-driven or high technology industries; those industries often being the cornerstones of urban economies. This is not quite the introduction of National Development Management Policies in favour of lab space trailed in Labour’s Life Sciences Strategy from January, but we are assured there is more to come.

There is also welcome recognition of the importance of efficient and reliable logistics facilities as part of this, as well as policy support for the expansion and modernisation of **“other industries of local, regional or national importance, to support economic growth and resilience”**; a rather generic catch all statement, but helpful in the context of supporting commercial development.

Taken collectively, explicit recognition that a modern economy may need new facilities and different forms of development, and that this need should be met, is welcome. Not least to act as a possible pragmatic counterweight in the decision making process to pressure that is growing, in some areas, to prevent the renewal and replacement of commercial buildings on the grounds of embodied carbon.

Subtle changes to transport policy may also assist here, with a strengthened statement that development should only be resisted on highways impact grounds where there would be a severe impact in **“all tested scenarios”**. This would prevent the worst case scenario, or peak hour scenario, being used to resist proposals.

The Government is also canvassing opinion on extending the Nationally Significant Infrastructure Project (NSIP) regime to some of these types of development, and is calling for opinions on the appropriateness of this, and the thresholds that should be used. This is, curiously, alongside proposals elsewhere to raise the NSIP threshold for solar farms, recognising that there has been a ‘bunching’ effect of solar farms just below the 50MW NSIP threshold to avoid having to go down that consenting route.

YES TO BROWNFIELD

Since its first incarnation, the NPPF has contained a presumption in favour of sustainable development, used for decision making when planning policy is out of date.

It - and countless versions of national policy before it - has also been supportive of brownfield development.

The draft NPPF would take this a step further, coming close to creating a new presumption in favour for brownfield development, which **“should be regarded as acceptable in principle”**, operating separately from the presumption. In the words of the consultation, **“the default answer to brownfield development should be yes”**. This would provide helpful additional weight in favour of the vast majority of urban proposals that are on brownfield land. We are told this is the first step to-as-yet unexplained **“brownfield passports”**.

In parallel to this, some changes to the role of Design Codes are proposed. We have previously been concerned that previous Conservative amendments to the NPPF invited design codes to define what would be considered an inappropriate increase in residential density, potentially undermining the basis for densification. This mechanism is proposed for removal, with a corresponding strengthening expectation that plans should promote an uplift in density in urban areas.

Changes to national policy in respect of brownfield development are welcome as a statement of intent and to signpost the direction of travel. They should also influence local decision making, but the extent to which – sometimes subtle – changes in technical wording actually affect local behaviours and decisions by planning officers and committee members will vary considerably. Certainly, they are likely to take time to have effect and, in some cases, may need some appeal and ministerial decision making to clarify weight or meaning.

CARBON AND PLANNING

The proposed changes to the NPPF to support additional renewable generation, onshore wind, and transmission capacity have been well publicised.

Very little, however, is said about the vexed issue of carbon – especially embodied carbon – in relation to planning decision making. No changes are proposed to the NPPF on the topic. Neither the NPPF, nor the consultation document, provides any additional direction on this relatively new, but challenging, issue

There are two areas to watch, though. First, the Deputy Prime Minister has set herself a target for ministerial decisions on planning applications of 13 weeks. One of those applications in her in-tray is, of course, Oxford Street’s Marks and Spencer, following the High Court’s decision to quash her predecessor’s refusal to grant planning permission, which will compel her to grapple directly with the issue of embodied carbon.

Second, the consultation asks for views on **“the current state of technological readiness and availability of tools for accurate carbon accounting in plan-making and planning decisions”**. In doing so, it acknowledges that a similar question was asked in December 2022’s consultation, revealing support for the use of carbon assessments, but **“questions about its delivery”**. The consultation document asks how stronger action can be taken to tackle climate change. It recognises that putting climate ambitions into practice is likely to pose some technical challenges, especially around carbon assessment, but suggests that **“strengthened policy”** may be needed.

We anticipate that the forthcoming review of the London Plan will need to address this issue for London. But potentially it will have to do so without any clearer national guidance.

LA PLUS ÇA CHANGE...

Much change is proposed. But one critical area where change is not proposed is the historic environment, whether in terms of the statutory formulations in the 1990 Act or the policy expression of these in Chapter 16 of the NPPF. Both remain unchanged.

Whilst Historic England has produced a new Advice Note ([Historic England Advice Note 18](#)) on energy efficiency and retrofit in historic buildings, heritage policy can, in some urban contexts especially, remain a significant constraint on physical change which these reforms do not tackle.

The NPPF also continues the support for upward extensions but reduces the emphasis on this being in the form of mansard roofs, recognising that this is just one form of upwards extension that policy supports, allowing the way for less traditional (or historic) forms of extension.

PLANNING RESOURCE

The NPPF deals with policy, not resourcing. But the Government has recognised the lack of capacity within planning departments to deal with both the increase in work that these changes are hoped to prompt, and the surge of complex planning issues that the last few years have created. Labour's proposal for another 300 planners, funded through an increase in stamp duty for overseas buyers, not only featured in its manifesto but also got top billing in Rachel Reeves' first speech as chancellor. But split across c. 350 local authorities, this amounts to less than 0.9 of a new planner per LPA.

With a shortage of planners with relevant skills in the UK, we are yet to hear how this resource will be secured quickly or any long term education plans to invest in the skills that will be needed in the future across the whole of the development industry to deliver Labour's proposed growth plans.

The consultation document alongside the NPPF looks at ideas for other funding streams. These include doubling householder application fees, allowing locally set application fees (or, at least, some local variation) and charging – or charging more – for other types of applications such as listed building consents and applications under Section 73 to amend planning permissions. In some areas, the property industry has consistently called for a more localised approach to fee setting, that recognises the burden of work and resourcing on local authorities.

MAKING A FEW GOODBYES

The Conservatives' amendments to the NPPF that introduced 'beauty' as a design consideration are to be removed.

Never, to our knowledge, described as a thing of beauty, the consultation also confirms that the Conservatives' proposed Infrastructure Levy will not be implemented, with the Government to focus on improving the existing system of developer contributions.

"RETURN'D SO SOON!" - THE STANDARD METHOD 2.0

We come, at last, to housing. This is several topics in itself, and we do not seek to repeat the detail of the proposals here.

In summary:

1. The Government proposes the reintroduction of a Standard Method for calculating housing need. This has been uncharitably described as the Return of the Mutant Algorithm. It will be more difficult – but not impossible – for local authorities to justify an alternative target to the one produced by the Method, which is based on the average rate of housing stock growth, adjusted for housing affordability, rather than frozen population projections.
2. This would require 370,000 new homes per annum. The housing need figure for each local authority, on the new measure, has been released. On a crude, non-weighted, average, local authority targets are increased by c. 70%, but this masks very considerable regional variation. Some, predominantly larger, northern and Midlands cities see sizeable reductions in their requirements, whilst other areas, again predominantly smaller northern local authorities, see increases of over 300%.
3. In London, the position is more complex. It is right that the new method would reduce London's overall target from c. 100,000 under the old method, to c. 80,000 under the new, as has been widely reported. Both are, however, higher than the 52,000 homes per year target that the London Plan currently sets, and then distributes across the London boroughs (and against which London consistently falls short).

4. Whilst most of London's local authorities would see a reduction against their previous Standard Method target (and in many cases, against their London Plan distributed target), Westminster and Kensington and Chelsea stand out with 100% and 200% increases respectively. Crucially, though, we anticipate that the London Plan would continue to play a role in distributing this requirement across London, as it has done before.
5. Requirements to cooperate and plan strategically to meet that need are proposed to be strengthened, both in the short term and by seeking to achieve universal coverage of Strategic Development Strategies (SDS) in this Parliament, which will require legislation.
6. The targets will – and are intended to – exert more pressure for development. They will do so even for the most urbanised authorities which have no Green Belt to release. In these cases, the relative weighting given to promoting commercial – and other land uses – alongside residential will be a key topic for plan making, especially in large parts of central London that have historically accommodated both.

SHADES OF GREY IN THE GREEN BELT

It isn't Joseph's 'coat of many colours' quite yet, but in addition to brownfield land and the green belt we can add "Grey Belt" to add to planning's evermore technicoloured lexicon.

The definition of Grey Belt is interesting – and broad. It is to be land which is previously developed and "any other" parcel of land that makes a limited contribution to Green Belt purposes, which is, itself, then defined. The effect of this is that Grey Belt could be significantly wider than just the disused petrol stations, surface car parks, and similar developed sites that have been mooted. So it may be possible to treat parts of the Green Belt differently based on their actual contribution to Green Belt purposes, rather than the automatic reverence that it currently commands.

For **plan making**, not being able to meet housing need will be recognised as an exceptional circumstance, and in these circumstances Green Belt boundary reviews should be undertaken. Previously developed land should be considered first, before going on to consider other Grey Belt sites (in sustainable locations) that are not previously developed, and then other sustainable Green Belt locations.

For **decisions**, development within the Grey Belt (which will include sites that are not previously developed) will not be considered 'inappropriate' where it would be in sustainable locations; not fundamentally undermine the function of the Green Belt across the area of the plan as a whole and when either a five year supply of housing cannot be shown **or** there is a need for land for development of local, regional or national importance.

Additionally, housing development would need to deliver at least 50% affordable housing (subject to viability); necessary infrastructure and new or improved publicly accessible green space.

Taken alongside the reintroduction of a revised Standard Method, this would put an end to the perpetual discussion at Inquiries as to, first, what housing need actually is and, second, whether failure to meet it, either on its own or taken with other considerations, is an exceptional circumstance justifying development in the Green Belt.

Where 'major' development takes place on land that has been released from the Green Belt or approved by grant of planning permission it is required to provide at least 50% affordable housing (subject to viability); necessary infrastructure; and new or improvements to green spaces which are accessible to the public. No doubt this will lead to a debate around the status of Green Belt release sites in current emerging plans and whether they should now be subject to these requirements. A range of options that would limit the use of viability testing, including the use of nationally set benchmarks for the value of land released from Green Belt, are also proposed to give effect to this.

OTHER MATTERS

Sir Michael Lyons has been appointed chair of a New Towns task force, to report on appropriate locations for significant housing growth, with a final shortlist of recommendations within 12 months. It is expected that the new towns programme will include large-scale new communities built on greenfield land and separated from other nearby settlements but may also include a larger number of urban extensions and urban regeneration schemes.

The NPPF consultation is pepperpotted with reference to the National Development Management Policies ('NDMP'). So whilst the Infrastructure Levy may have been dropped, other aspects of the Levelling Up and Regeneration Act are clearly to be retained. It is noted that the NDMP should be accessible and web-based, as part of a simplified plan making system. It is not yet clear how and when these will be brought forward.

A Devolution Bill is also promised, to promote more consistent devolution, including strategic planning, new combined authorities and regional leadership.

ONE MORE THING... PLANNING AND INFRASTRUCTURE BILL

So far, we've talked about policy. In our opinion, this is sensible. Changing the planning system's software can be done (relatively) quickly; too often Governments have been fixated with upgrading the hardware (or at least tinkering with the wiring), whilst time has slipped by and need has intensified. But legislative change is coming too, in the Planning and Infrastructure Bill announced in the King's Speech.

The content planned for this is something of a mystery, although we've been afforded a few tasters of possible ingredients. Of particular significance is a promised **"national scheme of delegation" to "modernise planning committees"**. Labour MPs with local government experience, not least time served on planning committees, will no doubt have views on this, but changing – or even limiting – the circumstances in which applications can go to committee could be a very sizeable change to the operation of the planning system. In urban areas in particular, where even the smallest of proposals can often be of great sensitivity locally, a size threshold for committee determination could change the risk profile substantially.

Further changes to Compulsory Purchase Orders are also promised to ensure **"fair"** but **"not excessive"** payment to land owners.

WHAT'S NEXT

The consultation runs until 24 September, and we are told that the updated NPPF and revisions to the PPG will be in place before the end of the year. The Written Ministerial Statement, and even the proposed changes to the NPPF, can already be given some weight in planning decision making.

CONCLUSION

Governments are prone to hyperbole when talking about planning reform; too often the sun has failed to rise after a promised new dawn.

In our opinion, these proposed changes could be significant, and positive – at least for housing delivery.

For housing and for the Green Belt, they will intensify existing political challenges, especially as the Government's popularity inevitably wanes, but also change the shape and extent of towns and cities.

For urban areas and commercial centres, they will mean that the development of other land uses will have to be reconciled with, and accommodated alongside, renewed pressure for housing, even as that commercial development is given additional policy emphasis, especially in brownfield locations.

These changes have, first, to be formally incorporated into the NPPF and, in some cases, primary legislation, running the gauntlet of local political concerns that are already mobilising. We also have to understand to what extent they actually influence local authority officer, member and applicant behaviour.

No doubt much more ink will continue to be spilt and electrons excited as we track the evolution of these proposals, as has been the case before. But, this time, a new Government has approached this most difficult of topics with energy, focus and speed.

This time, perhaps, it could really be different.

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