

## RAYNSFORD REVIEW CALL FOR EVIDENCE - THEME 2: The scope of the planning system

A response by the Campaign to Protect Rural England to the Raynsford Review of Planning Call for Evidence.

Matt Thomson, CPRE. October 2017

---

How effective is the application of the plan-led planning system?  
Would a zonal planning system based on systems in the EU be more transparent and effective?

- The plan-led system is undermined by application of NPPF policy resulting in plans setting housing delivery targets far higher than willingness or capacity of housebuilders to deliver. In this context, the application of 5-year supply rules and the presumption in favour of sustainable development mean it is in developers' interests to ensure plans are delayed in production or undermined in application by failure to deliver to target. This enables developers to secure consent for more profitable sites than those that are the most sustainable or which are preferred by the community. See CPRE's report [Set up to fail](#). The outcome is not a plan-led system at all, but a developer-led system determined by appeal.
- Since the inception of town and country planning in England in the early twentieth century, there have been periods during which planning has become less strategic and more focused on whether individual proposals meet a bar of not being harmful enough to warrant being refused permission. This approach is typified by a 'presumption in favour of (sustainable) development' or applications being determined 'without prejudice, on their own merits', or the production of 'sustainable development scorecards' against which individual proposals can be assessed. Truly sustainable development can only come about as a result of identifying the needs for development in an area and then planning to meet those needs by comparing alternative options and selecting those that best meet needs in the most beneficial (or least harmful) way, including in some cases planning to not meet needs in the area, but to transfer needs to other areas where development would not be (or be less) harmful.
- These and other current problems are exacerbated by the chaotic and often conflicting hybrid of the traditional English discretionary plan-led system, and European/American-style systems of zoning and coding. Neither system is completely compatible with the way land is bought and sold in England, or with the property rights of landowners.

- This is not to say that there is anything inherently wrong with a planning system based on zones and codes, but such systems only work where there is very limited ‘natural’ right to develop one’s property. Zoning for development confers the right to develop within specified parameters, but there is great flexibility over how the land can be developed without need for further scrutiny of proposals within certain parameters. Because there is no right to develop outside zones, following the zoning is attractive and self-enforcing. Zoning needs to be linked with land value capture to avoid spiralling land prices.
- Discretionary systems work best where property development rights need to be managed because the details of individual proposals can have disproportionate impacts - particularly in heritage, natural or landscape protection areas. Such systems enable development to be considered with flexibility and innovation so that some development needs can be met even in the most sensitive areas without unreasonable harm.
- In England, given the importance that landscape, environment and heritage have for our economy and for people’s well-being, a rational hybrid of two systems could be beneficial, with a zoning system for managing growth effectively and sustainably across much of the country, and a discretionary system in the context of general restraint operating in AONBs, National Parks, Conservation Areas, etc. For it to be effective, the restraint needs to be real: there should be no ‘hope value’ for harmful development in protected areas; equally, there must be measures that have the effect of regulating the price of land that is identified as suitable for development.
- The problem at the moment is that the application of different systems (discretionary, zonal and generally permissive) is not rational and this, along with the lottery of landowner aspirations on the value of their property, is resulting in unplanned and irrevocable harm to our environment and cultural heritage on an unprecedented scale. See CPRE’s reports [Targeting the countryside](#) and [Green Belt under siege 2017](#).

## Should land use control apply to all land uses, including agriculture and forestry, in light of the social and environmental challenges that we face?

- Given the finite quantity of land in England and the likely pressures that will be put upon that land by factors such as climate change, comprehensive land use control may become necessary, but could be a step too far politically speaking in the short term. Ahead of such an eventuality, certainly we need a clearer national understanding of the competing demands upon the use of land so that this finite resource can be managed and used most effectively without measures put in place that are overly draconian.
- A national framework for understanding this and a system of ‘live’ monitoring of land uses and needs for land use could be enormously helpful. The outputs of this could be used to inform a national strategy for prioritising land uses (including protection of certain types of land). See also commentary on a national spatial plan in CPRE’s submission on theme 3.
- Land use controls might not all necessarily be operated through what we understand as a ‘land use planning’ system, as land uses are probably best

managed in a number of different ways, including a system of incentives and penalties (e.g. through taxation or CAP and its successors), or through non-planning environmental permits and production quotas. The need for a national land use framework or strategy would be underlined by the lack of a single management mechanism.

- Planning or similar controls could be applied to help to promote more diversity in and opportunities for new players to access agriculture and horticulture activities - see CPRE's [New model farming](#).
- Currently the effectiveness of some land use control mechanisms is hampered as a result of being too fragmented by administrative boundaries. This is the case for example for planning for minerals extraction, water abstraction and foul water disposal. Whilst for minerals, there is some vestigial co-ordination in terms of managed aggregate supply through the Aggregate Working Party (AWP) system, this does not amount to planning on a landscape scale, both to identify appropriate locations for development and also, with regard to minerals, to ensure the most environmentally beneficial approaches to the after-use of working sites. However, serious thought needs to be given to how better to engage communities with such large-scale issues, noting that the current mechanisms for planning for nationally significant infrastructure are often lacking in this regard.

### To what extent has the greater use of permitted development for the conversion of buildings met the objectives of sustainable development?

- The purpose of permitted development (PD) rights in planning law is to reduce the need for people to submit applications, and for councils to process them, where the impacts of development would be negligible. Recently, this purpose has been perverted into one of reducing 'red tape' for developers pursuing proposals that government considers the planning system should be favouring, even if there are significant harmful impacts, and reducing the discretion of communities to plan effectively for the use of buildings and land in their areas.
- Some controls over some potentially harmful impacts are maintained through arcane 'prior approval' procedures, but these can be ineffective, and in any case cost councils to process but without a fee to defray that cost.
- PD rights are highly complex and impenetrable to developers, the public and even council officers, and are constantly changing; navigating the system adds to public costs, including increasing burdens on planning enforcement teams (also not funded through fees). Additional burdens are put on councils seeking to regain control through Article 4 directions, which again are resource intensive.
- Ultimately PD is anti-localist: it prevents communities from determining the types of development they would like to see or not see in their area, key aspects of which include the potential for low rent commercial premises using older office, industrial and agricultural buildings.
- Key aspects of the harm from PD include:
  - Rights to convert commercial to residential raises rents in often otherwise low-rent premises, especially older office, industrial and agricultural buildings, reducing opportunities for SMEs and start-up businesses, as well

as charities and voluntary organisations. PD rights can be counter-productive for economic growth and regeneration, and this can be hardest felt in rural areas where house prices are higher and alternative opportunities for business premises are more constrained. The best way to restore the balance is to revoke these PD rights and give communities back the discretion to plan for local needs.

- Rights to convert agricultural buildings to homes are particularly complex and, even though there are many checks & balances in place, have raised expectations about conversion possibilities in unsuitable locations; opportunities for premises for rural businesses are being reduced, as are opportunities for affordable homes and homes for agricultural workers. There are also significant landscape impacts that arise over time and incidentally to the initial conversion, even with the initial checks and balances having been followed.

Green Belt under siege 2017: <http://www.cpre.org.uk/resources/housing-and-planning/green-belts/item/4623-green-belt-under-siege-2017>

Set up to fail: <http://www.cpre.org.uk/resources/housing-and-planning/housing/item/4158-set-up-to-fail-why-housing-targets-based-on-flawed-numbers-threaten-our-countryside>

Targeting the countryside: <http://www.cpre.org.uk/resources/housing-and-planning/housing/item/3722-targeting-the-countryside>