

RAYNSFORD REVIEW CALL FOR EVIDENCE - THEME 4: Community involvement in planning

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

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How inclusive and effective are current approaches to community involvement in planning?

Since the Localism Act 2011, communities have been granted more access to influence their local planning system. For example, this introduced the community right to build, community right to bid and community right to challenge, which all gave communities more control over what is built in their own area. The introduction of neighbourhood plans has also given communities the power to shape the development of their local areas pre-emptively. The use of these has had mixed outcomes, with 57% of planning appeals dismissed when consulting the neighbourhood plan¹. Neighbourhood plans have been used more in rural areas (67% of published neighbourhood plans), the South of England (75%) and more affluent areas². Recently the Neighbourhood Planning Act 2017³ amended that a draft neighbourhood plan should be taken into account, allowing communities more power in local developments even in the early stages. This Act also introduced a new procedure to allow Neighbourhood Plans to be modified without having to restart the process from scratch⁴. This can save community groups time in making sure a plan is “up to date”, without having to redo the entire plan, so that it can hold more weight in decisions.

Despite this progress in making planning more inclusive for communities, there is no official route of holding councils to account if they set aside a local or neighbourhood plan against the wishes of the community involved. The appeals process remains one sided as there is still no third party right to appeal, whilst developers are granted this right. . The only power the public has in this regard is to request the Secretary of State ‘calls in’ a planning application for his consideration, yet this is only available for major cases that may have more than local significance is involved. We do recognise that this route can be effective (e.g. in March this year, the Secretary of State rejected plans for 95 homes by an East Sussex Village due to conflict with the local and neighbourhood plan) but it is an option that is opaque to most people affected by planning proposals.

¹ Computerised planning appeals service: searching key word “neighbourhood plan” with decision “allowed” or “dismissed”

² Turley (2014) *Neighbourhood Planning: Plan and Deliver?*

³ Neighbourhood development act 2017: chapter 20.

⁴ http://www.legislation.gov.uk/ukpga/2017/20/pdfs/ukpga_20170020_en.pdf

⁴ <http://researchbriefings.parliament.uk/ResearchBriefing/Summary/SN06418#fullreport>

Even when the system aims to be inclusive, the planning process remains fairly inaccessible to anyone without professional knowledge of the system. Webpages can be difficult to navigate and can contain a lot of jargon. There are often also numerous documents in relation to one planning application, and numerous conflicting applications affecting each site.

What are the appropriate governance structures for the system in relation to democratic accountability and citizen rights?

Neighbourhood plans are a democratic way local people can have a say about the development of their area as the plan must be approved by a vote by the citizens. Democratic accountability can be ensured by elected councillors, who should be encouraged to play an active role in neighbourhood forums. Some processes are more centralised, for example if the Secretary of State ‘calls in’ an application⁵. The Secretary of State decides, but there can be an opportunity for local people to present evidence.

The public also have a right to be heard in major new developments by presenting their evidence orally to planning committees and to public examinations. But such rights are often applied inconsistently by councils and inspectors, limiting appearances by time or by the numbers of people who can speak. We heard of a case recently where a council limited speakers to one in favour and one against for each planning application at committee; the person selected to speak against the application was from the business community rather than a local resident, and did not turn up at the meeting, but the local residents were not allowed to speak in his/her place. In public examinations of local plans and section 78 appeal hearings, inspectors frequently take a strong line on encouraging objectors to submit written evidence to reduce pressure on the hearings, but then only write up their consideration of evidence presented orally in their reports (an issue we have previously reported, with evidence, to the planning inspectorate).

These structures improve democratic accountability and citizen rights, therefore they must be respected. Local people expect their neighbourhood plans to be considered and abided by as they have been consulted upon and agreed democratically. However, in many cases these are dismissed, with 43% of planning appeals that consulted a neighbourhood plan still being accepted¹. This is potentially due to the pressure on local authorities to build houses to match their unreasonable housing targets.

Should communities have the same appeal rights as developers?

Currently many developments are going through that do not accord with communities’ aspirations as expressed in their local and neighbourhood plans, including developments on the Green Belt. However, this is improving, with a 14% to

⁵ Planning Applications: A campaigner’s guide (2016) Friends of the Earth. (pg. 11)
<https://www.foe.co.uk/sites/default/files/downloads/planning-applications-campaigners-guide-101934.pdf>

25% increase in the last 18 months of homes dismissed at appeal where a local authority has been able to demonstrate a five-year housing land supply⁶.

CPRE have long been asking for the introduction of third party right to appeal. This would raise public confidence in the planning system and introduce higher standards for deciding planning applications as planning authorities would be as accountable for their approvals as they are for their refusals. This is especially relevant for cases when local or neighbourhood plans have been dismissed as communities have a legitimate expectation that their plans should be upheld and therefore should have the right to challenge such decisions.

As the major opposition to the introduction of third party right to appeal is that it could make the planning process longer, less efficient and more expensive, we suggest that they could be restricted, for example to major developments. Thus, the introduction of a third party right to appeal would involve little or no more government involvement than the current call-in procedure. Another way to prevent over-burdening the system would be to restrict the right to appeal, for example to neighbourhood planning bodies or those who initially objected to the original planning application, or to consider alternatives to a full appeals process. This could include more rigorous 'departure' procedures, or an independent local tribunal with the power to recommend certain actions. It would also be important that any restraint on delaying tactics could be introduced if required, such as a power for inspectors summarily to dismiss appeals.

Yet, there wouldn't be as much of a need for third party right of appeal if people felt their concerns have been taken into account more thoroughly at the earlier stages. For example, if developments align more with the policies of local and neighbourhood plans, which demonstrate the community is supportive before a planning bid is even submitted. Furthermore, if decision makers were again compelled to provide clear reasons why approval had been granted it might make them think more carefully about granting consents against the policies of the development plan. Or, "where no neighbourhood plan is in place, landowners might consider working with the local community to promote a plan that balances the needs and aspirations of both parties"⁷. Similarly, if there was a strict zoning and coding system with permissions in principle it would indicate where developments are more supported before application. Finally, if local councils didn't feel pressured to grant planning approval due to unreasonable housing targets or gain from New Homes Bonus, plans could be further negotiated and locally insensitive developments could be prevented, in place of those that consider local and neighbourhood plans.

Should individuals have outcomes rights such as a right to a home?

England currently has no law stating the right to housing, but the former Government planning policy (PPG3) in the 2000s did state that 'everyone should have the

⁶ <http://www.planningresource.co.uk/article/1446428/planning-housing-research-reveals-drop-homes-granted-appeal>

⁷ On Solid ground: encouraging landowners to invest in rural affordable housing (2016) CPRE (pg.13) <http://www.cpre.org.uk/resources/housing-and-planning/housing/item/4425-on-solid-ground>

opportunity of a decent home'. This reflected a wider policy paper which outlined an aim "to offer everyone the opportunity of a decent home and so promote social cohesion, well-being and self-dependence"⁸. Recently, a proposed amendment to the Government's new Housing and Planning Bill to make all homes fit for human habitation was voted down 312 votes to 219 (72 of the MPs who voted against the amendment are themselves landlords who derive an income from a property).

CPRE do not believe this is good enough and so recommend that one of the planning system's goals should be to ensure that a suitable home is provided for all. A significant way of providing these is to focus on housing need, rather than the current focus on demand and reliance on the market, which is only leading to a mismatch between the housing required and the housing that is built⁹. We need the right homes in the right places and to ensure there are affordable homes in the countryside.

⁸ Quality and Choice: A Decent Home for All. The Housing Green Paper. (2000) Department of the Environment, Transport and the Regions: London. (pg.7)

⁹ Needless demand: How a focus on need can help solve the housing crisis (2017) CPRE.
<http://www.cpre.org.uk/resources/housing-and-planning/item/4677-needless-demand-how-a-focus-on-need-can-help-solve-the-housing-crisis>