



Planning Bill: ensuring a democratic, fair process that delivers sustainable development

Good planning is essential for sustainable development and to deliver integrated economic, environmental and social benefits. Society needs to make decisions about the major infrastructure (roads, railways, power stations, airports, waste) we need in a timely and efficient manner, but an undemocratic decision-making Commission, the removal of existing rights in the inquiry system, and the failure to require the decision to properly consider sustainable development will not deliver the kind of infrastructure Britain needs for the future, nor will it build consensus around decisions.

The organisations listed here, who are supported by more than 5 million people, have come together out of a deep concern that many of the proposals in the Planning Bill would be a backward step. We ask you to support the following amendments to the Planning Bill to ensure an accountable, fair process that delivers sustainable development.

Decisions must be democratically accountable

The proposed decision-making Commission is unelected and unaccountable. In the view of the Courts, Ministers make 'administrative' decisions, in which they are politically accountable and in respect of which they have to act lawfully. In addition, the importance of democratic accountability in planning has been famously noted by Lord Nolan: "To substitute for the Secretary of State an independent and impartial body with no central electoral accountability would not only be a recipe for chaos; it would be profoundly undemocratic." We are concerned that the IPC will not be sufficiently accountable to Parliament and the public to take decisions of national and often international importance. Ministers should continue to make decisions.

This amendment is intended to remove the decision-making powers of the Infrastructure Planning Commission (IPC) and to focus its remit so it is an investigative body making recommendations to Government, and a single point of receipt for applications for development consent.

Amendment: Part 6, Clause 96, on decision makers. Leave out from 'consent' to end of line 15 and insert 'means the Secretary of State'.

NB: Consequential Amendments to Clauses 35, 36, 69, 78 and 80.

Sustainable development must be a meaningful, enforceable duty

The 2005 UK Sustainable Development Strategy, *Securing the Future*, established the twin goals of living within environmental limits and providing a just society by means of a sustainable economy, good governance and sound science. The sustainable development duty placed on Ministers in preparing national policy statements (Part 2, Clause 9) must include the duty to consider climate change, and the duty must also apply to the Commission as it considers proposals for nationally significant infrastructure. The concept of sustainable development must also be clarified.

Amendment: Part 6, Clause 97 (2), In deciding the application the Panel or Council must have regard to— *leave out sub-paragraphs (b) and (c) and instead insert:*“(b) any other national policy which is relevant to the development, (c) the development plan, (d) the desirability of contributing to the mitigation of, and adaptation to, climate change, (e) the proposed measures for limiting the nature and/or extent of any negative impact of the development, and (f) any other material considerations.” *Also amend* (3), The Panel or Council must decide the application in accordance - *insert* “with (a) the dual objectives of achieving sustainable development and of avoiding so far as is reasonably practicable damage to or deterioration of: (i) society including the health and well being of the population; (ii) the environment including biodiversity living organisms and the ecological systems of which they form part, natural resources and the climate; and (iii) the economy; and (b) the relevant national policy statement, except to the extent that one or more of the following subsections applies.”

Inquiry procedures must provide effective rights for the public

There is a presumption that the Commission will take evidence through written representations, and the decision on whether to have a public hearing is also at the discretion of the Commission. There are opportunities to appear at an ‘open floor’ session, but no right to cross-examine in order to test important evidence. Witnesses are not required to be independent but are brought by the developer, leading to flawed evidence. The pre-application consultation opportunities will be seen as biased and flawed by communities as they are run by the developers themselves.

Amendment: Part 6, Clause 85 (1) The Examining authority’s examination of the application is to take the form of consideration of written representations about the application. *Add the following proviso:* subject to the right of interested parties to make oral representations.

Policy Statements must be properly scrutinised

The Secretary of State will be able to designate any existing policy statement as a National Policy Statement. We believe that NPSs should be created from scratch, and designed specifically to meet the consultation and appraisal requirements set out in the Bill. This amendment will remove the ability of the Secretary of State to designate a policy as an NPS without being required to fully undergo either Strategic Environmental Assessment (SEA) or the consultation procedures that will be introduced for NPSs.

Amendment: Part 2 Clause 11, on pre-commencement statements of policy, consultation etc., delete entire clause.

References:

R (Alconbury Developments Ltd) v Secretary of State for the Environment, Transport and the Regions and other cases [2003] 2 A.C. 295
2005 UK Sustainable Development Strategy, *Securing the Future*