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**Friends of
the Earth**

The English Planning System: An overview

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What is the planning system?

When someone wants to build something, permission has to be given. For most developments, the local authority decides, but in exceptional circumstances the Secretary of State decides.

Under the Planning Act 2008 there are also some large developments which are decided by an unelected body, the Infrastructure Planning Commission, although that is due to change next year (2012). In addition, changes under the Localism Bill 2010 will introduce a new tier of planning, called Neighbourhood Planning, and will also formalise the removal of Regional Spatial Strategies, the regional planning tier.

There is a process an application needs to follow before a decision is reached, and it is this process along with the associated planning documents used which is known as development control. In general, the planning system favours the person applying for development (the applicant) and not the person who objects.

In some places, permitted development orders will be made. This allows development which is specified in the order to take place.

So what's the process?

After a planning application is made, along with all the additional information required to assess the impacts, planning officers have to weigh up the different arguments as to why a proposed development should or should not go ahead, based upon a swathe of documents and information. For example, the officer needs to decide whether the environmental damage is too great to allow the perceived economic gain to take place. If this is the case, then a recommendation that the application is refused will be made. After a report is written by the planning officer, the elected planning committee votes to allow or reject the application. Democracy in action!

OK, let's hear more about this 'system' you mentioned

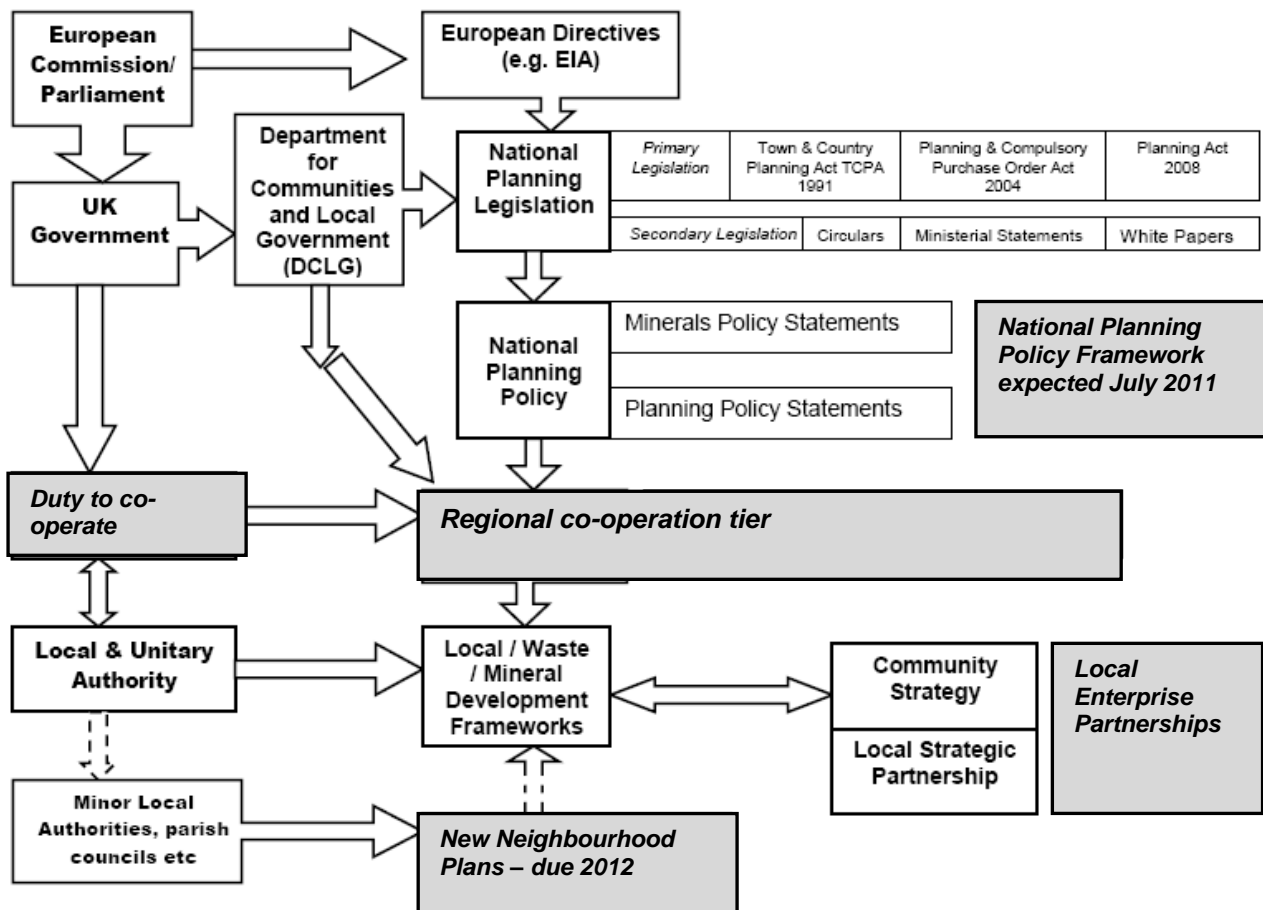
Until very recently, there was just one planning system in England, which operated on many levels. But now there are several systems:

- Neighbourhood planning introduced by the Localism Bill will be lowest tier of planning and will be done by Neighbourhood Forums (undemocratic organisations) or Parish Councils;
- Local planning, consisting of the Local Development Frameworks and development control, carried out by local authorities;
- Enterprise zones, where planning will be relaxed;
- Major infrastructure projects, decided at the moment by the Infrastructure Planning Commission, but in 2012 will be decided by the relevant Secretary of State.

Guidance for local authorities making decisions and the Infrastructure Planning Commission is issued by the Government. Changes are happening there too – the national planning policy issued by the Department for Communities and Local Government for instance on retail, housing, economic development, flood risk, conservation and biodiversity is going to

be removed and replaced with a short, less comprehensive, less detailed document called the National Planning Policy Framework. National planning guidance on major projects has so far only been issued on Energy.

Political power and policy in planning



(Changes due to the Localism Bill and other Government initiatives are marked in grey).

Pretty diagram, but what does it mean?

Well, European directives and laws directly influence national planning legislation, as all member states need to interpret and implement them. There are also primary and secondary acts of Parliament, key primary ones being the 1990 Town & Country Planning Act, 2004 Planning & Compulsory Purchase Act, and 2008 Planning Act. The Localism Bill of 2010 will also make amends to these Acts, and introduces a new tier of planning.

This in turn influences **national planning policy**. This is currently published in the form of planning policy statements (PPS), minerals policy statements (MPSs) and National Policy Statements (NPSs). These have legal status. Also, just to confuse the already muddled waters, government circulars, government white papers and ministerial statements also carry weight. Weight is a term describing how much importance is given to a policy or other factor when deciding planning matters.

The Government has announced plans to amalgamate the planning policy (PPS) into a National Planning Policy Framework but the NPS will remain separate for now.

The Regional Spatial Strategies have been removed, although legal challenges are still ongoing, they will be replaced by a duty to co-operate in the Localism Bill 2010.

Minerals and waste remain the responsibility of unitary authorities and County Councils (the “top tier” councils). The policies of the regional strategies remain valid until official removed, but as Government is going to remove them, they do not carry much weight any more. It is not clear what should happen to regional policies e.g. on renewable energy development.

Old style plans are being progressively replaced by local development frameworks, which are made up of statutory development plan documents and non-statutory supplementary planning documents.

Where there are no plans in place, there is a risk that the Government will introduce a “presumption in favour of development” which will allow developers to put in speculative applications that the local authority will not be able to refuse even if they are inappropriate or risk damaging the existing community.

Government planning policy

Local planning authorities need to take into account national planning policies when drawing up development plans and other documents and when making decisions on planning applications. Government statements are set out in a series of planning policy statements (PPSs). These are produced by the Department for Communities and Local Government. The PPSs focus on stating Government policy, whilst good practice guidance for local authorities is set out in separate documents accompanying them. These are all under revision, with a new National Planning Policy Framework proposed which is far less detailed and prescriptive.

OK, what about the regions?

The Regional Spatial Strategies (RSSs) are being removed. In fact the Government has removed them, but this has been challenged and so far the challenge has been accepted by the Courts. A process now has to be undergone before they can be properly removed. But the Localism Bill 2010 removes regional spatial strategies from the Planning and Compulsory Purchase Act 2004 and replaces them with a weak and undefined ‘duty to co-operate’. London retains its plan with some changes.

Local Development Frameworks

In place of the old local plans, the 2004 Planning and Compulsory Purchase Act introduced Local Development Frameworks. These are folders of documents that get produced at different times and added to the framework once they are adopted by the local authority. The Local Development Framework is meant to be based on the objectives of the Sustainable Community Strategy that sets out the long-term vision for your local area. Please refer to Friends of Earth’s guide to Local Development Frameworks for more detailed information.

Local Development Schemes

This is a public statement setting out details of which local development documents will be produced, in what order and when. The Local Development Scheme (LDS) is the starting

point for local communities to find out what local planning policies relate to your area. Please refer to Friends of the Earth's guide to Local Development Schemes.

Local Development Documents

These are all the documents included in the framework. There are three types of local development document:

1. Statement of community involvement

This explains how the local authority will engage with the public in preparing its documents.

2. Development plan documents

Development plan documents are statutory documents and form part of the development plan. These include:

- Core strategy
- Proposals map
- Area action plans (e.g. shopping centre, airport)
- Development control policies
- Site allocation policies

3. Supplementary planning documents

These elaborate on policies and proposals in the development plan documents, such as:

- Design guides
- Development briefs
- Practice advice notes

Minerals and waste development framework

Minerals and waste local development documents are contained within a minerals and waste development framework (similar to a local development framework). They are produced by the minerals and waste planning authority (county council or unitary authority).

The waste documents contain:

- An assessment of existing waste generation within the area and future trends.
- The authority's overall strategy for managing waste, including detailed policies on how this will be achieved.
- A demonstration of how the overall strategy is based on the 'best practicable environmental option' (technical criteria are contained in Government guidance).
- Policies on waste minimisation.
- Identification of a list of existing waste management sites with capacity to increase.
- Detail of new or existing sites which could be extended for waste management and disposal facilities (if required). These should be specific locations within which

specific proposals might be acceptable or criteria which will be used to assess planning applications.

- Policies on how to avoid and reduce the environmental impact of new or existing waste management facilities – such as recycling facilities, composting sites, incinerators, landfill or land-raising sites and waste separation and transfer stations.

Please refer to the Department for Communities and Local Government (DCLG) publication PPS12 and its companion guide for further information, and for information on mineral development frameworks. For Friends of the Earth publications please refer to the references section at the end of this briefing.

Community Strategies

Community Strategies and Local Strategic Partnerships are likely to have a significant effect on your area, shaping its future development and setting priorities over the services, strategies and spending of bodies such as the council, police, health service and other organisations. Because of that, you should press for your Community Strategy to contain commitments and actions needed to address environmental issues.

The Department for Communities and Local Government is in charge of Local Strategic Partnerships. The Local Government Act 2000 placed a duty on local authorities (county and district councils and unitary authorities) to prepare a Community Strategy in partnership with the community. Community Strategies are usually prepared by a body called a Local Strategic Partnership, made up of representatives from local bodies and interest groups. Please refer to Friends of the Earth's guide to *Sustainable Community Strategies; Local Strategic Partnerships*.

Neighbourhood Planning and Development Orders

The Localism Bill 2010 (not yet law) will introduce Neighbourhood planning. This will be undertaken by Parish Councils where they exist or in other places by new Neighbourhood Forums. These forums must consist of a minimum of 21 people, and can either be set up to promote the well-being of an area, or for the promotion of business interests. People living in, working in, and wanting to live in the area can become a member of the Neighbourhood Forum.

The Neighbourhood Forum or Parish Council can create a Neighbourhood Plan which sets out the policies for the development of the neighbourhood (which cannot cross a local authority boundary).

Communities and businesses will also be able to use neighbourhood development orders to give permission for the development they want to see - in full or in outline – without the need for planning applications.

The Neighbourhood plans and development orders must be in line with Local Development Frameworks where they exist, national planning policy and are voted on in referendum to be accepted by the community.

Conclusion

The planning system may appear complicated but there are steps you can take to ensure your involvement is as effective as possible.

- Make sure you talk to the planning officer at your local authority and ask them your questions if you want something explained.
- Read the various briefings we have prepared to guide you.
- Keep copies of any letters you write and receive.
- Local authorities are duty bound to engage and consult with local communities – don't let them off the hook!
- Get others involved – together you can make a difference. Don't let apathy rule the day, and never take 'no' for an answer.

Further information and guidance:

Friends of the Earth – Tel: 020 7490 1555
26-28 Underwood Street, London N1 7JQ
Website: www.foe.co.uk

Rights and Justice Centre

Email: legal@foe.co.uk

Specific reading

Community Rights Resource Pack - This pack contains the individual guides referred to.
www.foe.co.uk/campaigns/fair_future/resource/rights_resource_pack.html

Local Development Frameworks

Search for your local development framework here:

www.planningportal.gov.uk/wps/portal/ldf?docRef=LDFSearch&scope=203&langid=0

Planning Policy Statements

As at June 2011

Draft Planning Policy Statement: Planning for a Natural and Healthy Environment
Planning Policy Statement 1: Delivering Sustainable Development
Planning and Climate Change - Supplement to Planning Policy Statement 1
Planning Policy Statement: eco-towns - A supplement to Planning Policy Statement 1
Planning Policy Guidance 2: Green Belts
Planning Policy Statement 3: Housing
Planning Policy Statement 4: Planning for Sustainable Economic Growth
Planning Policy Statement 5: Planning for the Historic Environment
Planning Policy Statement 7: Sustainable Development in Rural Areas
Planning Policy Guidance 8: Telecommunications
Planning Policy Statement 9: Biodiversity and Geological Conservation
Planning Policy Statement 10: Planning for Sustainable Waste Management
Planning Policy Statement 12: Local Spatial Planning
Planning Policy Guidance 13: Transport
Planning Policy Guidance 14: Development on Unstable Land
Planning Policy Guidance 17: Planning for Open Space, Sport and Recreation
Planning Policy Guidance 18: Enforcing Planning Control
Planning Policy Guidance 19: Outdoor Advertisement Control
Planning Policy Guidance 20: Coastal Planning
Planning Policy Statement 22: Renewable Energy
Planning Policy Statement 23: Planning and Pollution Control
Planning Policy Guidance 24: Planning and Noise
Planning Policy Statement 25: Development and Flood Risk
Planning Policy Statement 25 Supplement: Development and Coastal Change

www.communities.gov.uk/planningandbuilding/planningsystem/planningpolicy/planningpolicy/statements/

Useful web sites

Government

Department for Communities and Local Government
www.communities.gov.uk/

The Planning Inspectorate

www.planning-inspectorate.gov.uk/

Environment Agency

www.environment-agency.gov.uk/

Environment Agency Public Registers

www2.environment-agency.gov.uk/epr/

Information Commissioners Office

www.ico.gov.uk

Neighbourhood Statistics

www.neighbourhood.statistics.gov.uk

The Planning and Compulsory Purchase Act 2004

www.legislation.hmso.gov.uk/acts/acts2004/20040005.htm

Planning Portal

www.planningportal.gov.uk

Non Governmental Organisations (NGO)

Air Quality – UK National Air Quality site

www.airquality.co.uk

Campaign to Protect Rural England planning site

www.planninghelp.org.uk

Environmental Law Foundation

www.elflaw.org/

Liberty

www.liberty-human-rights.org.uk/

Wildlife and Countryside Link.

www.wcl.org.uk