Planning reform will undermine democracy, communities and action on climate change

Deregulation driven by Treasury will undermine the planning system in the England.

The recent announcement from the Department of Communities and Local Government is a drastic change to the previous localism agenda. The Government is proposing the following key changes, as outlined in the Secretary of State’s statement 1:

- New legislation for Government guarantees of up to £40 billion worth of major infrastructure projects and up to £10 billion of new homes. The Infrastructure (Financial Assistance) Bill will include guaranteeing the debt of Housing Associations and private sector developers.

- Thousands of big commercial and residential applications to be directed to a major infrastructure fast track and where councils are poor at processing decisions developers can opt to have their decision taken by the Planning Inspectorate. More applications also will go into a fast track appeal process.

- “Removing restrictions on house builders to help unlock 75,000 homes currently stalled due to sites being commercially unviable. Developers who can prove that council’s costly affordable housing requirements make the project unviable will see them removed.

- For a time limited period, slashing planning red tape, including sweeping away the rules and bureaucracy that prevent families and businesses from making

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1 6th September, Secretary of State statement, Communities and Local Government

For more than 40 years we’ve seen that the wellbeing of people and planet go hand in hand – and it’s been the inspiration for our campaigns. Together with thousands of people like you we’ve secured safer food and water, defended wildlife and natural habitats, championed the move to clean energy and acted to keep our climate stable. Be a Friend of the Earth – see things differently.
improvements to their properties, helping tens of thousands of home owners and companies.”

- There is concern that the array of local and national standards used in different parts the country is complex and counter-productive: confusing local residents, councillors and developers. I am announcing today a fundamental and urgent review led by Government working with interested parties to rationalise these standards. This review will result in a clear plan of action by next spring, including legislative approaches if a significant rationalisation cannot be agreed.

The Government is railroading communities and local government with its proposals – introduced without public consultation or debate. There is no planned public consultation process before publication of the draft legislation required, due in early October. There is deep concern within local government, the planning profession, developers and NGOs that these reforms are using the planning system as a scapegoat for economic woes. Changing the planning system in England in this way will seriously undermine local democracy, action on climate change and people’s right to have a say. There will be an increasingly complex mix of local and centralized decisions, with decision-making power become increasingly concentrated and less accountable.

There are four major changes to planning and one to permitted development, as well as the introduction of financial assistance for major projects. The four changes are – changing the definition of major infrastructure, changing the way appeals work, changing section 106 agreements and changes to building standards. Extensions will for a short time become permitted development (i.e. there is no need to submit a planning application).

1. **Will the proposed changes to the major infrastructure projects regime safeguard democratic accountability?**

   In fact, these changes will reduce democratic accountability. Eric Pickles, the Secretary of State for Communities and Local Government calls the changes ‘muscular localism’. But these changes mean that the Planning Inspectorate will decide on a hugely increased number of applications based on a policy process.

   The Government proposal is to change the project types listed in the Planning Act (currently power stations, airports, railways, motorways) to include large housing and commercial (possibly including retail) developments. Under the Planning Act, examiners conduct an examination of the major project and recommend a decision to the Secretary of State. You do not have a right to be heard during the major projects examination but you can submit a written representation. Your right to be heard is at the discretion of the examiner. Instead you have an ‘open floor hearing’ which is essentially a (short) opportunity to say your piece.

   This proposal means that local authorities will no longer make the decisions on key developments in their area. You may elect your councillors and expect them to make the decision locally, but these proposals will mean that they will no longer be doing so. In addition, these decisions will be taken out of a local context and their role in the shape of the area and the community will not be properly understood.

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2 No White Paper has been published.
2. **What will happen to the appeal process?**

An appeal is when a local authority makes a decision to refuse, and the developer appeals. The case is then taken to the Planning Inspectorate who examine the case and then make a decision – they can grant permission at this stage even if the local authority has refused. There is no right for communities to appeal.

The proposals suggest appeals need to be fast-tracked, depending on whether the local authority is dealing with developments either on the grounds of insufficient speed or low quality. However there is no detail on how the current timescales (which already have provisions for dealing with applications that have been held up) are expected to get any quicker without significantly more resource. It is clear that community consultation and local democratic accountability is at risk if the system is ‘speeded up’ even further. The issue of quality also brings in another layer of complexity, yet there is no detail as to what is meant by ‘quality’.

The proposals also relate to the Secretary of State increasing his call-in powers. Instead of allowing local government to get on with making decisions, there will be a greater number of decisions that are taken at a national level. This is a change in the previous Government position to reduce the number of call-ins.

3. **What does “renegotiating affordability” mean?**

Essentially the Government is proposing that existing planning permissions, where the development hasn’t started for whatever reason, should have their ‘planning gain’ re-opened and reduced or removed to make them more profitable and therefore attractive for developers to commence work. Planning gain (Section 106) is where a developer makes contributions for public benefit – it could be for schools, or for an access road, or for wildlife sites, and, commonly, for affordable housing provision, and for sustainability standards. These could be re-opened through the appeal process, further increasing pressure on the Planning Inspectorate and more delays into the system, and resulting in the loss of public benefits and less mixed developments. One outcome of this could be greater segregation between communities, as the mix of affordable and market housing is lost and instead communities are polarized into wealthier and poorer. Sustainability provisions are also very likely to be lost.

4. **What are the changes to building standards**

The Government says that there is confusion around building standards. However there will be increasing confusion if the national standards are weakened and if there is a proliferation of local standards through each local authority.

It also sends a very damaging message about the Government’s position on low carbon, resilient communities. It is essential that new development is built to the highest possible standards in climate terms. A substantial reduction in building standards will also be a setback for the industry. BRE have estimated that the low carbon goods and services market
is worth £112 billion\textsuperscript{3}. Building standards must ensure that high-quality zero carbon is the norm rather than the exception.

5. **Permitted development for extensions**

This is a proposal to waive the need for planning applications for extensions to buildings, both homes and commercial, under a certain size. This is hugely problematic because of the direct impact extensions have on neighbouring properties. It is unclear how the proposals will deal with building regulations and things such as light impacts. Initiatives such as Uttlesford District Council’s rule that extensions should provide the opportunity to increase the energy efficiency of the whole property will be possible only on a much smaller range of extensions which still come under the need for a planning application. The Secretary of State has called this proposal “a very reasoned, very civilised and very straightforward change”\textsuperscript{4} in the face of local authority and public concern.

6. **Will these proposals save money?**

No, overall the proposals will increase medium and long term costs. This is because thousands of decisions could be pushed through that don’t meet the climate challenge, as well as building standards being lowered, and the social costs of not having mixed developments could be long-term.

Planning inspectors doing planning officers’ job is much more expensive. Commissioners - who lead the examinations into major projects such as power stations and major roads - leading examinations on large housing developments and commercial developments is much more expensive. Planning officers earn between £25-35K whereas Commissioners in the major projects decision-making unit are salaried at £75-100K. Inspectors earn around £39-60K. Increasing appeals is also more expensive for the same reason.

**Conclusion**

Overall these proposals do not add up to action on climate change, and it is very hard to see how they will deliver on the Government’s growth agenda. They create confusion about the Localism agenda, and should be seen as a complete reverse of Government policy. Planning is not the cause of our economic difficulties, and continuous reform is undermining public legitimacy and confidence in the planning system.

\textsuperscript{3} BRE, 2011 www.breeam.co.uk
\textsuperscript{4} BBC Sunday Politics Show, 23 September 2012