

BRIEFING



Conservative Party's Planning Green Paper: "Open Source Planning"

23 Feb 2010

The Conservative Party published its long-awaited Green Paper on Planning - ["Open Source Planning"](#) on 22 February.

This note summarises and analyses its main proposals. We have also included the text of HBF's press release on the Green Paper at the end of the note.

Overview

The contents of the Paper are largely as expected from our informal discussions with the Conservative front bench team.

It proposes:

- abolition of existing national and regional housing targets and the Regional Spatial Strategies.
- a radical re-orientation of the planning system with local plans being built up from the community level subject to a slimmed down national planning framework and supporting guidance – and a limited role for the planning inspectorate in examining local plans.
- as a proposed counterbalance, a new presumption in favour of sustainable development, subject to national guidance and the requirements of the local plan being met.
- In addition to the Conservatives' existing proposal for a new financial incentive to reward local authorities which deliver housing, a proportion of payments received from a new local tariff system (replacing CIL) would be passed to the community in which development is taking place.
- significant changes to the appeals system, including a third party right of appeal for local residents
- transitional arrangements

HBF's assessment and next steps

The changes proposed are radical and while the Paper contains some details that indicate thought has been given to HBF's arguments about the need for suitable checks and balances under a new "localist" system, there is much detail that still needs to be filled in. The absence of this detail necessarily raises concern about the impact of the proposals on the longer-term business climate for the industry. Shorter-term, transition to the new regime and the position developers may face during this period is also a major issue.

The emphasis of the proposals on the primacy of the local neighbourhood in determining the policy and requirements of new local plans, coupled with the proposed third party right of appeal, is a significant area of concern. Given the concentration of “Nimby” views at the most local level, the Paper’s proposals would appear to give traditionally Nimby local residents considerable scope to frustrate development. Against this, no substantive detail has been provided on the requirements to be set out in the proposed new national planning framework and its slimmed down supporting guidance, while it will be for local communities to determine what constitutes a sustainable land supply for development.

HBF has a number of further informal discussions involving our members planned with the Conservative front bench team in the next few weeks at which we will raise these and other points of concern and seek commitments from the Conservatives to address them positively.

We have referred to our concerns and the fact that such a radical change is a high risk strategy in our press release on the Green Paper, but we have also alluded to our wish to continue to discuss the details with the Conservatives. We judge it is important for the HBF and the industry to be inside the tent in discussing the detailed implementation of the conservatives’ ideas should there be a change of government at the election.

Key details of the Green Paper

Introduction

The Paper leads with the judgement that the current planning system is broken and needs radical change. Piecemeal change will not be adequate.

Communities should be given the greatest possible opportunity to have their say and the greatest possible degree of local control to formulate a shared vision of sustainable development.

The adoption of “Open Source” planning – a concept based on the experience of opening up individual access to computer programming in the software industry. Under a national framework of planning priorities and policies local people and local government would have much greater scope to produce plans for their own distinctive local communities.

Planning at a neighbourhood level – villages, towns, estates, wards or other relevant local areas – will mean local people will be able to specify what kind of development and use of land they want to see in their area.

National and regional planning

Abolition of “the entire bureaucratic and undemocratic tier” of regional planning, including the RSSs, the Regional Planning Bodies and national and regional building targets.

Will consider whether to use the Secretary of State's executive powers to revoke the RSSs in part or whole prior to primary legislation – which is anticipated in the first year of a Conservative government. The draft policy changes and legislation would be published for consultation and would have “emerging policy” status, allowing LPAs to amend elements of the RSS which they find undesirable prior to legislation.

Integrate into one document – a national planning framework – the principal features of all national planning policies. This framework would have to be debated and voted on by resolution by both Houses of Parliament and would set out national economic and environmental priorities, and how the planning system will deliver them.

Existing PPSs and PPGs would be reviewed and those judged necessary would be shortened and aligned to reflect national priorities. These revised guidance notes would set out minimum environmental, architectural, design and social standards for sustainable development.

Local plans

Under “open source”, LPAs would be mandated to assemble local plans from the “bottom up” using “collaborative democracy” which academic research (unspecified) has proved a “highly successful concept”. The Conservatives will consult on the models of collaborative democracy best suited to the planning system.

Evolution of the plan would at least:

- start at the neighbourhood level
- be informed by “the provision of good data” , including analysis of the likely need for housing and affordable housing, by the LPA
- a presumption that the neighbourhood “modules” of the local plan would normally be incorporated in the local plan
- the LPA to broker a rational and coherent plan for the whole area via negotiation with neighbourhoods and public agencies

Co-operation between local authorities

Unitary or upper-tier authorities will be encouraged to take a strategic view and take the lead in compiling Infrastructure Plans.

The conservatives would legislate to give all local planning authorities and other public authorities a Duty to Co-operate to ensure they consult all relevant parties, including bordering authorities, in drawing up their plans, including for infrastructure.

Role of the Planning Inspectorate in examining local plans

Abolition of Inspectors' ability to change local plans following public examination. Instead Inspectors will only be able to report to the Secretary of State on whether the plan breaches national policy or process or is not spatial (consistent with adjoining authorities).

Under this approach Inspectors will consider whether the LPA has conducted a professional assessment of the housing need for their locality and the SoS will reject plans where this has not been adequately performed. (Guidance to be produced).

Sign off of the plan by the SoS will, in effect, legitimise everything in the plan – including the local definition of “sustainable development”. If the SoS does not sign off the plan it will be for the LPA to amend and resubmit its plan.

More freedom for communities and councils to set energy efficiency and renewable generation requirements for new development.

Presumption in favour of sustainable development

The Paper proposes a presumption in favour of “sustainable development” as a counterbalance to the devolution of power to the LPA and community levels. The presumption would be “a guiding principle of the planning system”.

Under the presumption it would be unlawful for a LPA to refuse permission for a development if the application is from a duly constituted Local Housing Trust, or the application:

- conforms to the local plan;
- is accompanied by a payment of the agreed level of local tariff, and;
- in the case of larger projects, is the product of the required public consultation process e.g. Enquiry by Design.

However, in cases where “more than a small minority” of residential neighbours in the immediate vicinity of a new development raise any objection, the application would have to be formally assessed by the LPA.

Against this, the Paper envisages that in many cases developers would choose to avoid such formal assessment by “reaching voluntary agreements to compensate nearby householders for the impact of the development on their amenity, in return for their support”.

Appeals

The proposals would limit appeal against local decisions to two grounds – failure to follow correct procedure (to be dealt with by the Local Ombudsman) or failure to apply the local plan (through PINS).

Introduction of a right of third party appeal on the above grounds by local residents.

Introduction of an unspecified mechanism to “weed out frivolous or malicious appeals” prior to full consideration by either the Local Ombudsman or PINS.

Transition

The Paper recognises that “there has been a degree of apprehension that some local authorities will take the opportunity.. [of the change] ...to put a brake on house building”.

To counter this, the Conservatives would:

- legislate that if new local plans have not been completed within a prescribed period, the presumption in favour of sustainable development will automatically apply;
- make clear that during transition current local planning documents will continue in force, although LPAs can review them to undo unwanted RSS derived policies
- “expect” that the Option 1 RSS housing numbers offered by LPAs will be used as provisional housing numbers until new plans are completed and will be used as the baseline input for the new plans
- Envisage that an adequately robust five year land supply would be available and needed to justify the local plan definition of sustainable development, but it would be for LPAs and communities to determine whether this was the same supply as previously set out

Other housing points

Confirmation of the proposed incentive to match council tax receipts on new housing for 6 years.

The level of the incentive will be kept under review “in order to ensure that it does deliver”.

The ability for local communities to establish Local Housing Trusts outside the local planning process to lead housing development in local areas – market housing, affordable rent, sheltered housing, low cost starter homes.

Support for self-build.

Affordable housing targets to be locally determined and requirements can be included in the local plan. LPAs will be allowed to require a % of housing developed in their area to be affordable. The financial incentive for affordable homes to be 125% of the council tax raised by that home.

Planning obligations

Planning obligations to be limited to their original function of direct site specific remediation and adaptation.

Replace CIL with a single unified local tariff applicable to all development but at graded rates. Each LPA to set its own local tariff through its local plan.

A proportion of the revenue from the local tariff would be passed to the community or neighbourhood in which the development paying the tariff is located.

Affordable housing, development by LHTs and self build housing will be exempt from tariff payments.

Design

Encouragement of good quality design: “we will expect local authorities to set out architectural and design standards in their local plans”.

Legislation would require that “on projects above certain thresholds, before they can submit a planning application, developers involve the local community in collaborative design, as determined by the local planning authority”. Depth of collaboration would be a material planning consideration.

Parking

Amend planning guidance to abolish rules that force up local parking charges and scrap all national parking standards: this should be a matter “for local discretion depending on the nature of the neighbourhood”

Miscellaneous

No national density targets.

Reclassify gardens as Greenfield land to stop “garden grabbing”.

Scrap predetermination rules over Councillors (subject to preventing advancement of personal interests).

Amend use classes order to allow Change of Use in accordance with locally specified ranges set out in the local plan.

Conservation credits to address environmental/ biodiversity impact and help fund local action to maintain and improve this.

Gypsies and Travellers reforms.

Reintroduce the retail needs test and introduce competition test.

Building Regulations to be simplified and reduced but “can play a significant part in the greening of our housing stock”.

Extending permitted development rights beyond the recommendations of the Killian Pretty Review.

Abolish the Infrastructure Planning Commission, but retain its expertise and fast-track process by creating a specific unit for major infrastructure projects within a structure with PINS.

John Slaughter
Director of
External Affairs

News Release

For immediate release 22nd February, 2010.

Conservative proposals ‘concerning’

Whilst welcoming the Conservatives’ commitment to increase much needed housing supply, their Planning Green Paper proposals published today pose some significant concerns for developers the HBF said on behalf of the house building industry.

It believes that scrapping regional targets and structures and devolving power down to local communities is a high risk strategy, as whilst most people recognise the general need for more housing, when it is on their doorstep acceptance of that principle is often lacking. Many areas of the country face acute housing shortages and there are inevitable social and economic implications that come with not building enough homes for the local population. Finding a way to ensure agreement on supply will be critical.

Similarly, the proposed changes to the appeals system would increase uncertainty for developers which in itself could result in less rather than more homes being built.

HBF Executive Chairman Stewart Baseley said today; *“Whilst appreciating that there are shortcomings in the current planning system, implementation of such a radical policy potentially is a high risk strategy and may have unintended consequences which need to be addressed. HBF and the industry is committed to working with whichever party is in power to ensure much needed housing is delivered.”*

For media enquiries, or to arrange an interview, please contact Steve Turner on 020 7960 1606 / 07919 307 760 or steve.turner@hbf.co.uk

Notes to Editors:

1. The Home Builders Federation (HBF) is the principal representative body for private sector home builders and voice of the home building industry in England and Wales. The HBF’s 300 member firms account for some 80% of all new homes built in England and Wales in any one year, and include companies of all sizes, ranging from multi-national, household names through regionally based businesses to small local companies: www.hbf.co.uk