

## RESPONSE TO THE PLANNING REFORM WORKING PAPER<sup>1</sup>, PLANNING COMMITTEES

Submit here <https://www.gov.uk/government/publications/planning-reform-working-paper-planning-committees>

Thank you for the opportunity to respond to this working paper, and we would be delighted to discuss our comments.

We respond in sections:

- Answers to working paper questions
- Concerns about the proposals set out in the working paper
- Case studies.

To facilitate the principles set out in this paper, there is a need not only for a scheme of delegation but an explicit clarification that the policies set out in the National Planning Policy Framework (NPPF) and district local plans **must** be adhered to. One of the main reasons for delays, difficulties and disagreements is that organisations ‘cherry-pick’ those policies. Please see the case studies section below for an example. Both developers and communities must have certainty that, if applications do not comply with those policies, they will not be accepted by either officers or planning committees for consideration. The concept of ‘departure from the development plan’ must become a thing of the past because communities have invariably not been consulted on those deviations. Communities should be able to call-in any application to committee or the Secretary of State if they can demonstrate that it is not compliant with the NPPF, Local Plan policies or any other relevant policy.

It should also be recognised that it is a fallacy that lots of planning applications are turned down by Councillors at committees. The officers are always rigorous in reminding Councillors that if they refuse an application that is in accordance with the development plan the refusal will be overturned at appeal, and that they will lose on costs. It is really developer propaganda that this is a major issue.

### Answers to working paper questions

#### a. Do you think this package of reforms would help to improve decision making by planning committees?

Yes, however, we do have some concerns (see section below) and some observations.

We welcome your assertion that the way planning committees operate will be modernised “*to best deliver for communities*” and, given your recognition that planning “*is principally a local activity, because decisions about what to build and where should be shaped by local communities and reflect the views of local residents*”, these principles must be at the heart of any reforms to the process, changing the status quo, which sees communities largely uninvolved with shaping the future of their neighbourhoods.

Sound planning decisions can only be made on schemes that are aligned with the development plan and NPPF policies. Communities **must** be consulted on schemes that do not comply. Scrutiny by local planning authorities or committees is insufficient as it means communities do not have certainty about, or input into, what will happen in their neighbourhood, which does not satisfy the principles you are promoting.

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<sup>1</sup> [https://assets.publishing.service.gov.uk/media/6756cec1a63e1781efb8777f/Planning\\_Reform\\_Working\\_Paper\\_-\\_Planning\\_Committees.pdf](https://assets.publishing.service.gov.uk/media/6756cec1a63e1781efb8777f/Planning_Reform_Working_Paper_-_Planning_Committees.pdf)

**b. Do you have views on which of the options we have set out in regards to national schemes of delegation would be most effective? Are there any aspects which could be improved?**

We welcome the prospect of a national scheme of delegation which will provide a standardised, consistent approach to delegation of decisions in all local planning authorities, that is easy to navigate and transparent to users and the public.

If the first option is chosen, it must be clear that, for delegation to apply, the planning application must **fully** comply with NPPF and Local Plan policies. We note that it will not be a nationwide consistent approach if the local planning authority determines what is appropriate for those schemes that do not comply.

If option 2 is chosen, the exceptions from delegation should include (in addition to the two already identified):

- a. any greenfield site that is coming forward prior to all the brownfield in the authority area being approved for development
- b. any site that will result in extensive environmental or heritage harm
- c. any site that cannot be considered to be sustainable (for example, for reasons of insufficient infrastructure provision, including a lack of affordable housing, issues related to school places or health services, or where insufficient sustainable passenger or freight transport services are being planned and funded)
- d. any site for which the developer claims it is unable to deliver its obligations due to viability or other issues.

By incorporating the above in the exceptions from delegation, the issues highlighted at paragraph 17b will be avoided.

If option 3 is chosen, the list above should be added to the list at paragraph 20.

Our preference would be for the hybrid approach, where the benefits of options 1, 2 and 3 are maximised. This would require delegation for all schemes that **fully** meet the policies in the NPPF and the local plan. The committee would deal with the specific exceptions set out above and in paragraphs 15 and 20, with an officer assessment of compliance with policy.

In any option chosen, the applicant should be required to demonstrate Exceptional Circumstances for any non-compliance with (or 'departure from') the NPPF or the local plan. Residents **must** have the opportunity to comment on any non-compliant applications to avoid procedural unfairness.

An 'out-of-date' development plan should not, on its own, be considered an Exceptional Circumstance. Greater emphasis should be placed on the importance of an up-to-date local plan. Penalties **could** be applied for non-achievement but only if penalties are introduced for developers who do not build out approved planning applications within an agreed timescale. Responsibility for meeting the housing delivery test should be transferred to those who actually deliver development, which is rarely Councils themselves.

We agree that planning application approval should be justified on the basis of clear and detailed evidence, including an assessment of the application against NPPF and development plan policies.

**c. We could take a hybrid approach to any of the options listed. Do you think, for instance, we should introduce a size threshold for applications to go to committees, or delegate all reserved matters applications?**

As mentioned above, we believe the following exceptions from delegation should apply:

- Those mentioned in paragraph 15
- Those mentioned in paragraph 20

- Those mentioned in our response to question b above

The size threshold could be explicitly used as it is likely to be the determining factor for schemes that go to Strategic Development Committees. Reserved matters applications should be delegated unless they meet one of the criteria in the exceptions mentioned above.

**d. Are there advantages in giving further consideration to a model based on objections?**

Yes. Communities are a largely untapped, free, talent pool, with a wealth of information about their own neighbourhoods, a variety of specialisms and other attributes. The objection threshold is a useful measure of community support for the scheme, which should be a material consideration. As mentioned elsewhere in this response, many local plans are not well communicated to residents and consultation is not meaningful. This means that that many residents are not aware of proposed developments until planning applications come forward (sometimes not until the diggers turn up)!

Given that campaigners must use their own time (and their own money) to mobilise and canvass support, the government should welcome their valuable insights and the information they provide, rather than being concerned about their impact on the planning system. Communities really do have very little influence, to the extent that they do not even have the ability to appeal a decision and, if they feel legal action is their only recourse, they are the only party in the proceedings that has to raise the funding needed from their own pockets or via donations. Power is currently all in the hands of the developers. Government should be doing more to transfer that powerbase back to Councils and communities.

Promoting the approach set out in the Community Planning Alliance 'Homes for Everyone'<sup>2</sup> report and requiring the Green Claims Code<sup>3</sup> principles to be met for all planning documentation would significantly reduce objections to the vast majority of planning applications.

**e. Do you agree that targeted planning committees for strategic development could facilitate better decision making?**

Yes. There would, however, need to be clear guidance on their membership, their terms of reference, and their decision-making powers.

The terms of reference should require, for example, that the advice of specialist organisations such as the Office for Environmental Protection, Natural England, the Environment Agency and the Health and Safety Executive must be followed.

The terms of reference should also ensure that communities are invited to attend any meetings that are held with developers, including site visits. There must be a balance of insights and inputs from all stakeholders.

Paragraph 28 suggests that such committees would focus "*only on those developments that are critical to supporting local economic development and local housing need*". Where does the environment fit within the Government's plans? Surely such a committee may be needed if a Council determined that it would be appropriate to plan for extensive environmental, ecological or rural asset improvements?

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<sup>2</sup> <https://homesforeveryone.org/>

<sup>3</sup> <https://www.gov.uk/government/publications/green-claims-code-making-environmental-claims/environmental-claims-on-goods-and-services>

Safety check: members of the community should be able to call-in any application to committee (or the Secretary of State, if the decision has been made by the planning committee) if they can demonstrate that it is not compliant with the NPPF, Local Plan policies or any other relevant policy.

**f. Do you have a view on the size of these targeted committees?**

Section 106 and other regulatory matters are indeed very technical and complex, particularly so for larger schemes, which would benefit from the focus a Strategic Development Committee could bring. Whilst a core committee of three to five members may be appropriate, it should be noted that changes in members may be required due to electoral changes, sickness and other absences. With this in mind, particularly given the timescales for the completion of larger schemes, continuity would benefit from a standing invitation to committee meetings for deputies of the core group, Councillors of impacted Wards, and (if required) opposition members.

We agree that it would be helpful to include independent expert members who have professional expertise on the committees. This expertise should include, where appropriate, specialists in the natural environment, flood risk management, rural communities, or other local issues that need to be addressed by the scheme. Such experts should be totally independent from any developers.

**g. How should we define strategic developments?**

We agree that size thresholds are the most obvious way of defining strategic development for housing, employment or environmental improvements. Such a definition should be agreed nationally and should require the cumulative impact of development in an area to be taken into consideration, not just individual schemes or parcels. A Strategic Development Committee should be a requirement where the threshold is met.

It should be noted, however, that a strategic change in an area may not be related to size but to an aspiration to transform a neighbourhood. In such cases, the local planning authority should have the power to establish a Strategic Development Committee to oversee the planning and delivery of that transformation.

**h. Do you think the approach to mandatory training is the right one?**

Yes and, given the training is anticipated to be online, it should be available to communities too.

**Concerns about the approach set out in the working paper**

Our concerns, that that must be addressed before the approach outlined in the working paper is implemented, include:

**a. Community consultation**

Whilst we agree that every area should have an up-to-date local plan that will underpin officer and planning committee decision-making, it is essential that the plan-making consultation process is indisputably comprehensive and that such plans are not considered to have met the criteria for effective resident engagement if the number of resident responses is below 30% of the adult population of the plan area.

You mention (paragraph 9) that, in designing the new scheme you want to “*work extensively with the sector*”. The success of this new approach depends on meaningful community engagement. Local communities must have a say in the development and implementation of these objectives to ensure they reflect citizen priorities and needs.

**b. Allocations approved via the Local Plan process**

This paper repeatedly highlights that, where sites have already had “*democratic approval through the local plan process*”, schemes should be waived through.

We are concerned that:

- there has been insufficient effort to engage residents in previous local plan consultations, meaning that communities may not be either well-informed or supportive of proposed schemes (see case study below)
- local plans may have been agreed several years previously, and may not be aligned with the most up to date planning guidance or environmental aspirations
- there is now a greater understanding of issues relating to climate mitigation, nature’s recovery and future food security, that may significantly impact some allocation areas

Any updated scheme of delegation (and planning committees) should give consideration to these issues.

**c. Sustainable development**

Despite the NPPF purporting to be focused on ‘sustainable’ development, covering three equally important objectives (economic, social and environmental), invariably, the planning balance falls to the economic objective, leaving communities without the necessary infrastructure, the environment seriously harmed and committees struggling to address the issues arising from policies ignored by the scheme!

More effort is needed to ensure officers and committees effectively assess whether proposed schemes are genuinely sustainable, including in relation to the change of land use, the availability of sustainable passenger and freight transport and the necessary social infrastructure to support existing and new residents.

**d. Scrutiny in relation to adherence to policy**

Communities must be confident that meaningful scrutiny will be applied to adherence with NPPF and local plan policies (and other material considerations) whoever delivers the decision to approve or reject the planning application (officer or committee).

Communities should have confidence that non-compliant or speculative schemes that depart from NPPF policies or the development plan will not be approved without genuine consultation.

**e. Evidence, research, and peer review**

Strategic delivery must be grounded in rigorous, evidence-based assessments. To ensure credibility:

- Officers and committees should ensure that all plans and decisions are underpinned by relevant detailed evidence

- Where appropriate, officers and committees should request independent oversight of plans or decisions, with input from specific experts and, possibly, academic institutions. Currently some ‘experts’ are funded by developers, and this leads to a perceived (if not actual) bias in their evaluations.

**f. Findings set out in the report**

We’d like to highlight some specific concerns with have with the findings set out in the report, including:

- Paragraph 3a mentions that, where local schemes of delegation are not clear about when an application will go to committee, it can cause “*uncertainty for developers*”. It should not matter to developers which body or individual approves their scheme. What should matter is whether they have fully met policy requirements.
- Paragraph 3b suggests that allocated sites have already been considered through the local plans process. This assumes that the consultation process for previous local plans was effective and that applications are actually compliant with local plan policy requirements. See the case study below for examples of poor consultation and non-compliance with policy. If residents, and indeed, MPs/Ward Councillors, are not supportive of such planning applications because, for example, they will impact irreplaceable habitats, then it may be wholly appropriate to spend more time on examining the benefits and adverse effects of the scheme.
- Paragraph 17a suggests that, for some large local planning authorities, “*a departure from the development plan may be readily acceptable*” – this should be resoundingly discouraged. It means that schemes are being approved that have had limited (if any) public consultation on the principles of those developments. It is exactly these sorts of outcomes that lead to a lack of confidence in the system.
- Paragraph 21 states that option 3 would not “provide for as clear a link between compliance with the development plan and the scheme of delegation, reducing the incentives for developers to comply”. We are very concerned about the level of developer-control in the planning system. Compliance with policy should not be negotiable. There must be more action taken by the government to wrestle this control back into the hands of Councils and communities!

**Case studies**

These examples demonstrate non-compliance with NPPF and local plan policies, the lack of genuine consultation with communities and issues such as unsustainable development, which may require repeated scrutiny by officers and planning committees.

**a. Case Study - Lack of Compliance with NPPF**

The New Carrington Allocation within the Greater Manchester Spatial Plan<sup>4</sup> has involved the release of 169 hectares of Green Belt against the wishes of the local community. The former Green Belt land comprises part of a 335-hectare peat moss, Grade 2 Best & Most Versatile agricultural land, woodland and wetland habitats. Fifteen sites of biological importance (8 within the allocation boundary and a further 7 on its perimeter) and one site of special scientific interest will be impacted. The proposal is to develop 5,000 homes (only 15% affordable) and 350,000 m<sup>2</sup> warehousing space, plus 4 major new roads on, across and around the mossland.

In relation to the NPPF (the now archived 2021 version was in place at the time of the spatial plan examination), non-compliance with three specific policies is highlighted below, but this allocation was also non-compliant with many other NPPF policies. This makes the NPPF appear impotent and irrelevant! Allowing development to 'depart' from NPPF policies in this way does not give communities the certainty they need when assessing whether development risks causing environmental or ecological harm in their neighbourhoods.

NPPF (2021) paragraph 175, for example, stated that plans should "*allocate land with the least environmental or amenity value*". The land that has been allocated has the highest environmental/amenity value in Trafford. It should have been retained for climate mitigation (due to significant and regular surface water flood capture), nature's recovery and future food security. Yet, a 335-hectare peatmoss (restorable according to Natural England) will be sacrificed for development that should be delivered on the huge number of 'suitable, available and achievable'<sup>5</sup> brownfield sites in Greater Manchester.

NPPF (2021) paragraph 179 (a), for example, stated that plans should "*Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks*". This was not done, in fact there was not even a preliminary ecological appraisal for the allocation. Circular 06/2005, referenced in the associated footnote 61, was not adhered to.

Whilst NPPF (2021) paragraph 180, typically refers to planning applications, the planning inspectors stated that it should be applied to ensure development is plan-led. The planning inspectors dismissed Natural England's arguments that the allocation of housing and warehousing does not meet the wholly exceptional circumstances test (for which there are examples at footnote 63, none of which apply to this allocation, in fact, quite the opposite, despite the huge warehousing development resulting in and estimated over 3,000 HGVs a day on local roads, no sustainable freight transport is proposed).

The planning inspectors approved this site<sup>6</sup> (and others) against the advice of Natural England (NE). NE made repeated representations, both in writing and at the examination hearings, challenging the allocation of several sites across Greater Manchester that contain deep peat, including this one. They highlighted NPPF policy, their own experience of peatland restoration and the damage to be caused by the proposed developments<sup>7</sup>, including, in relation to the New Carrington site.

Given these, and other, NPPF criteria were ignored at the planning stage, both Councillors and communities will continue to challenge the developments, which will result in a need for further discussion. To ensure democratic oversight, and procedural fairness, such discussions should be held within a planning committee.

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<sup>4</sup> <https://www.greatermanchester-ca.gov.uk/media/3ccbetc4/post-adoption-places-for-everyone-joint-development-plan.pdf>

<sup>5</sup> <https://www.gov.uk/guidance/housing-and-economic-land-availability-assessment>

<sup>6</sup> <https://www.greatermanchester-ca.gov.uk/media/9282/pfe-inspectors-report-01-final.pdf>

<sup>7</sup> <https://www.hwa.uk.com/site/wp-content/uploads/2023/02/Places-for-everyone-NE-letter-to-Inspector-30.6.23.pdf>

**b. Case Study – Non-Compliance with Plan Policy**

The first criterion in the New Carrington allocation policy (in the Greater Manchester Spatial Plan mentioned above), states that development on the site will be required to be *“in accordance with a masterplan that has been developed in consultation with the local community”*, and that *“the consideration of opportunities to restore habitats, strengthen ecological networks, and manage the carbon and hydrological implications of development, having regard to the presence of peat on parts of the site”* should be central to that masterplan.

That masterplan has not yet been published for consultation, so residents are extremely concerned that two planning applications have already come forward (contrary to the brownfield first policy in the plan), with more expected imminently. Given the agreed policy wording, these planning applications should not even be considered at this time and scheme promoters should not be encouraged to ‘depart’ from policy to speed up delivery, given the environmental impacts the development will cause.

Whilst we highlight below concerns about the previous communication and consultation approaches to the local and spatial plans, there has been a significant improvement in the approach to masterplan development, which has involved all stakeholder groups, including community representatives.

Residents do understand that there will always be a form of prioritisation to ensure progress is made with any project, and the development of its deliverables. The masterplan initiative, however, has not yet taken any aspect of the natural infrastructure requirements into account (the Delivery Strategy has been explored first). Communities have been informed that this will be considered as part of phase 2 of the masterplan development.

This is of concern because it appears that the natural infrastructure requirements are being subordinated to other infrastructure and, given that compensation is due for the release of Green Belt and the destruction/damage to the peatmoss, along with mitigation areas to reflect the thousands of trees that will be felled to accommodate the proposed development and, of course, the anticipated biodiversity net gain, it is important to identify sufficient land to meet those requirements, which may impact the Delivery Strategy.

Given the sensitivities and complexities arising from this huge allocation, it is imperative that discussions in planning committee (and the opportunity for residents to highlight these issues) is not prevented by the proposed reforms.

Furthermore, significant public money (multiple millions of pounds) has been spent agreeing the policies within the spatial plan, over a 10-year period. If developers are able to ‘depart’ from the plan and ‘cherry-pick’ policy compliance, all that public money has been wasted!

**c. Case Study - Consultation**

Greater Manchester’s resident population was 2,682,528 in 2011 and 2,867,769 in 2021. Approximately 80% of the population are adults aged over 15 years (2,146,022 in 2011 and 2,294,215 in 2021).

In relation to the regional spatial plan, consultation on a scoping survey for the future development of the evidence base and subsequent consultations was undertaken in 2014. It received a total of just 94 responses. In 2015, a consultation was conducted on the Growth and Spatial Options paper. There were only 180 responses, of which only 33 appeared to be from residents. This suggests that there was wholly inadequate communication about the consultation.



The first consultation on the plan itself took place in 2016. There were more than **27,000** responses, the vast majority of which raised concerns about the amount of Green Belt land allocated for development (the Greater Manchester Combined Authority highlight<sup>8</sup> that this was “*the single biggest issue raised during the consultation process*”). That is considerably less than 2% of the adult population of Greater Manchester. Further consultations in 2019 and 2021 resulted in even fewer responses.

Given the importance of this spatial plan to the future of Greater Manchester communities. It must be recognised that the level of communication about the plan, its implications and the impact on local communities was wholly inadequate. With this in mind, the reforms must not remove democratic scrutiny and oversight of planning decisions.

The vast majority of Greater Manchester’s residents have had zero involvement in shaping the spatial plan, for which the 2021 consultation comprised over 150 documents. Over 14,000 pages, which had to be read, understood, digested and responded to within a very short time period. This cannot be considered to be community engagement or plan shaping, especially when our responses were largely dismissed. It should, therefore, be no surprise that communities want discussions and representation at the decision-taking stage of the process.

Trafford’s population in 2011 was 226,578 and in 2021 was 235,063. Consistent with the regional figure, around 80% of the population (181,262 in 2011 and 188,050 in 2021) are adults aged over 15 years.

Trafford’s Local Plan (known as the Core Strategy) was adopted in 2012 and consulted upon in 2009 (24 responses, very few from residents) and 2010 (44 responses, very few from residents). This is a pitiful response of not even half a %! It clearly demonstrates why residents need to discuss planning applications when they come through, even if they are related to allocations in local plans.

#### **d. Case study – Flawed Site Allocation in Local Plan**

In Colchester, Essex, there is a long running saga relating to the allocation of a local wildlife site with rare lowland acid grassland in the local plan for 1000 homes: Middlewick Ranges.

Arguably, the Planning Inspectorate should not have allowed the inclusion of the allocation in the Plan, with an inspector taking the word of the promoter’s ecologist against the representations of three other ecologists. Those three argued that the proposed creation of new acid grassland on a different site is highly risky, unproven and would take a great many more years (if it were to be successful at all) than the promoter alleged.

Many problems arose from the late inclusion of the site in the draft local plan, such that the local community was at a disadvantage in terms of preparing representations.

Subsequently, post adoption of the Plan, with time and support from a number of ecological bodies, the community has determined (via Natural England) that the site has the necessary species assemblages to be considered as an SSSI.

The site therefore acts as a very good example of why allocation in a local plan does not automatically give a site the automatic democratic credibility nor the environmental checks and balances assumed in the working paper.

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<sup>8</sup> <https://www.greatermanchester-ca.gov.uk/what-we-do/planning-and-housing/places-for-everyone/pfe-previous-stages/greater-manchester-spatial-framework-2016-2019-archive/gmsf-2016-draft-archive/>

It is therefore essential that communities and other stakeholders are able to intervene post local plan, to ensure that problems are highlighted and addressed and, if necessary, an allocation is removed from the Plan altogether. In this case study, the dysfunctional local plan system led to the wrongful allocation of irreplaceable habitat and under no circumstances should the ability of communities to be able to comment on a planning application, including in person at a planning committee, be removed.

## **Conclusion**

Whilst we think your aim to “encourage better quality development that is aligned with local development plans, facilitates the speedy delivery of the quality homes and places that our communities need, and gives applicants the reassurance that in more instances their application will be considered by professional officers and determined in a timely manner” is admirable, there are safeguards that need to be established to ensure communities do not suffer from procedural unfairness or significant departure from policies in the drive for accelerated approval of planning applications.

## **The Community Planning Alliance**

The Community Planning Alliance was founded in 2021 to support grassroots campaign groups operating in the planning system. Our map lists over 600 campaigns, all over the UK. We lobby for better community participation in planning, greater environmental protections and the right houses and infrastructure in the right places.

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