

# Rescue

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## Raynsford Review of Planning. Call for Evidence

### A submission from Rescue, The British Archaeological Trust

Submitted by Jo Caruth, Hon. Secretary. Email: [secretary@rescue-archaeology.org.uk](mailto:secretary@rescue-archaeology.org.uk)

Please see our evidence below.

### *The English planning system and sustainable development*

#### **Does the Planning System contribute to achieving sustainable development?**

Not wholly: the definition of what is “sustainable” is poor. Most members of the public take this to mean “development that provides benefits and works for communities and users in the short, medium and long term” whereas some developers appear to take it to mean “immediately profitable”. Many significant historic buildings have been lost and inappropriate and short-term, poor quality structures have replaced them – particularly in London– in the name of sustainability, when such buildings destroy the streetscape, damage local community cohesiveness, provide inadequate accommodation and end up standing unoccupied for years. The Mayor of London’s enhanced individual powers to override local planning authority decisions – decisions which are made by elected members, in respect of local concerns and on behalf of local communities - are undemocratic and should be reined in or removed. Similar powers must not be extended to other city Mayors.

#### **Does the NPPF provide an effective framework?**

Partly yes: the inclusion of heritage and countryside issues in the NPPF has ensured a more rounded consideration of these concerns during the planning process and in local plan making which is welcomed and has proven to be an important step forward from the preceding PPGs and PPSs.

However, the inherent bias in in the NPPF in favour of “sustainable development” and the confusion around what that term means is unhelpful and has led to a lack of clarity in the application of the system, and a plethora of appeals to test limits and definitions. The NPPF allows for significant interpretation of its provisions and too much room for misunderstanding of where emphasis and precedence should apply – particularly at committee levels where local members may be making decisions but are untrained in the finer points of planning law and policy. As a result it is failing to protect valuable and valued heritage structures, failing to give proper weight to measures to properly respect and enforce Listed Buildings legislation and other heritage provisions, failing to prevent degradation to archaeological sites and heritage landscapes through piecemeal small-scale development and failing to provide provisions at

local levels for adequate and properly-resourced staff to address these concerns. If the Government is truly supportive of sustainable planning and maintaining healthy local communities, it could consider measures such as introducing a basic presumption in the planning system that any standing building, structure or streetscape feature of a pre-WWII provenance requires a professional condition and re-use assessment and presentation of a valid justification for proposed removal in any planning application, or it should remain in place with a requirement for reuse. This would provide a starting point for development that is genuinely “sustainable”, supports and promotes reuse and sensitive development, and respects growing national concerns such as climate change and rapidly depleting minerals resources.

A weakness of NPPF is that it doesn't provide for adequate interim measures to protect unlisted or undesignated heritage assets being considered for designation, but prior to formal notice of such being issued. The recent cases of the deliberate destruction of heritage assets at 15 Small Street in Bristol (the ceiling) and the Carlton Tavern in Kilburn illustrate that the current measures are inadequate.

### **How can effective changes be made to national policy on key issues such as the viability test?**

National policy should include properly-defined provisions governing what is and isn't “high quality” development, a phrase frequently employed to describe proposals some of which are clearly not of any such classification. Use of high-quality materials does not necessarily make for a high-quality development; there is a growing need for quality control in the development system that extends beyond materials and encompasses design, siting, external views and local distinctiveness as requirements for satisfying planning provisions and being granted permission.

### ***The scope of the planning system***

#### **How effective is the application of a plan-led planning system?**

Zonal planning might assist in regenerating deprived areas and if used as a national strategic tool in major infrastructure planning, but in overdeveloped regions such as the south-east and London, it risks being misused and resulting in unsuitable proposals. Where used, it overrides local concerns and could lead to increased density of development without commensurate local services (schools, medical facilities) being catered for.

#### **Should land use control apply to all land uses, including agriculture and forestry, in the light of the social and environmental challenges that we face?**

Where control applies to heritage provisions then yes: heritage and archaeology can support sustainable development and provide for continuity of community. However, the current protection measures of the NPPF do not cover works by the Statutory Service Providers, agricultural practitioners or forestry. There is no need for a punitive set of provisions, but the ability to sensibly and rapidly identify sites and features that should be protected from ploughing, for example, should be made possible. A review of the nature of heritage protection in England - both within and outside the planning process – would be a useful exercise.

#### **To what extent has the greater use of permitted development for the conversion of buildings met the objectives of sustainable development?**

Permitted Development doesn't allow for heritage concerns to be adequately addressed and does not therefore meet the objectives of sustainable development. This could be resolved by making it simpler for local authorities to withdraw Permitted Development rights than the current Article 4 Direction system allows. We would advise against any extension to Permitted Development.

## ***The spatial structures of the planning system***

### **How effective are the structures of the planning system and how effective are their inter-relationships?**

The role of Neighbourhood Plans is poorly understood and there appears to be almost no correlation between these documents and the application of the planning process. If they are to be an effective tool for local communities then there needs to be a rethink regarding their position and weight in the process. Sub-regional plans are almost entirely redundant.

### **Is there a case for an English National Plan?**

This could be the intent of a revised form of the NPPF. Rescue would support a revision to the NPPF/introduction of an English National Plan if it was a fair-minded document that made proper provisions for both development AND heritage and environmental protection. Strategic concerns regarding housing and infrastructure can be managed satisfactorily in conjunction with environmental protections as long as all parties accept commonality of approach and certain compromise positions that can be achieved through an honest and unbiased dialogue and consultation process.

### **What is the role for New Towns Legislation?**

It is vital that provision is made in any legislation for the proper care and protection of the historic environment and heritage assets.

## ***Community Involvement in Planning***

### **How inclusive are current approaches to community involvement in planning?**

Not inclusive enough: communities often feel disfranchised and ignored by the current system, particularly with regard to Government-imposed local housing requirements. A fully nationally strategic approach should seek to limit development in certain areas, and provide for incentives to encourage it elsewhere. Greater weight in the process should be applied to sites and structures of local value and significance, and the processes involved in getting sites designated locally such as Assets Of Community Value should be easier and more readily achievable than at present.

### **What are the appropriate governance structures – should communities have the same appeal rights as developers?**

Yes. Communities should be able to bring effective challenges to inappropriate and unwelcome proposals. At present, a grant of planning permission cannot easily be appealed and not at all outside the Judicial Review process – only a refusal can be taken to the Planning Inspectorate. A more democratically-accountable system would allow for communities to bring challenges to development that they considered to be inappropriate and for these to be taken up by the Planning Inspectorate of their behalf.

### **Should individuals have outcome rights such as the right to a home?**

No response

## ***Planning and Taxation***

### **How effective are current mechanisms to capture land value increases that result from planning permissions? Are such benefits being distributed fairly in the public interest. Could a national development charge based on 'betterment' values ever work?**

The Aggregates Levy or Community Infrastructure Levy are already in place but at the moment can end up allocated into local authority projects and local people may not necessarily notice the benefits. It would be better if these charges were ring-fenced into providing proper benefits for communities, perhaps funnelled into grant schemes that local communities could apply for to create more attractive and welcoming environments.

**What are the wider issues and challenges relating to the land market (including the role of intermediaries and widespread use of optioning agreements)?**

No response

**Have recent reforms to compulsory purchase compensation resulted in a system which is fair to both landowners and taxpayers?**

No response

***Effective implementation***

**What are the key delivery issues that can aid effective implementation?**

Staff numbers and statutory provisions are key. Heritage considerations in the current system are prescribed in the NPPF but discretionary in their implementation: there is plenty of evidence being provided year-on-year (by Historic England and others) that the number of qualified heritage practitioners employed within the planning system is collapsing. This trend must be urgently arrested. Statutory status for Historic Environment Records is a minimum provision that should result as an outcome of this review, in line with the recommendations given in the 2014 report produced by John Howell MP and Lord Redesdale (*"The Future of Local Government Archaeological Services"*). As a minimum, all planning authorities should be required to have provision for receipt of qualified expert Conservation and Archaeological advice in considering planning proposals from sources other than from applicants, to ensure fair consideration of heritage issues in both planning and plan-making.

**How can the planning system be best resourced to meet current and future needs?**

The current system acts on a polluter pays principle: this is not wholly unfair, however it does penalise certain developers and it doesn't promote development in deprived areas. Developers could be rewarded through national subsidy, for developments that reuse heritage buildings, or are located in areas where works are needed, but perhaps might not be quite so lucrative. These national subsidies could be wholly resourced through the application of national levies on unsuitable and unsustainable development in areas where it is not so desperately needed. Changes to the VAT regime in respect of the development of Listed Buildings are urgently required and would fall under this category. Local authorities should also have the ability to "fine" developers that do not implement planning permissions to prevent land banking, and to revoke permission or reduce the period within which implementation must take place, if necessary. The presumption that once granted, the principle of a development on a site is unassailable, and a permission can be extended through a simple re-application should be removed: if a developer achieves a permission and does not implement it, there should be absolutely no guarantee that the completion of a short form and small fee will allow for its extension.

**What skills and expertise are necessary for planners?**

Our experience suggests that planning courses currently do not have a wide enough remit and that the inclusion of targeted modules for non-standard areas of concern such as the historic and natural environment would help. Such modules could include topics that cover the importance of being able to liaise with specialist advisors, and the role of and need for expertise in things **other** than planning.

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