

A CONFLICT AT THE HEART OF THE PLANNING WHITE PAPER (AND SOME SKATEBOARDING REFERENCES)

Whilst much could be (and most of it has already been) written about the Government's recent white paper on planning, two things struck me in particular.

First, how generous of Whitehall to offer such fertile ground to article-writing lawyers and other commentators searching for occupation during Covid-enforced idleness. There is only so much nourishment available via Zoom, and anyway, in terms of professional development, thanks to my planning bar colleagues and their prodigious supply of webinars (manifestly exceeding the need, whether assessed on a 5 year supply, standardised, or any other basis of your choice) all of us now know literally everything about the current policy and legislative regime that there is to know. Or at least, most of us do. Others have employed the unexpected gift of time more imaginatively: my two young sons and I, for example, are on the verge of perfecting the Frontside 180, which I reckon isn't at all bad for three pre-lockdown non-skateboarders.

Second, and more seriously, I detect a contradiction at the heart of the paper, a clash between two of the document's central themes. The first is the aspiration to rebuild "lost public trust" in the planning system. This is to be achieved by "reconnecting communities" to the planning process, so that residents become "more engaged" and enjoy "a greater say over what gets built" by, for example, replacing "meaningless consultation" with "genuine community involvement". The idea is that "local democracy and accountability will be enhanced".

The other central theme is about delivering more development more quickly. For example, making "decision making faster and more certain" by "streamlining the opportunity for consultation at the planning application stage because this adds delay to the process" – so that we can "increase the supply of land for new homes" and "build the homes our country needs".

Both aims are laudable in themselves, but experience suggests that they are also, to a substantial extent, mutually exclusive. The communities that are to be so warmly re-engaged are, typically, coldly hostile to development, particularly housing; the inconvenient truth is that most of us are NIMBYs at heart – not something to be proud of perhaps, but readily explicable in basic anthropological terms. The white paper cites a recent poll: only 7% of respondents trust their councils to make the right decision on large scale development. I speculate that what this really means is that the other 93% have either seen their council permit large scale development nearby, or fear that they might do. Experience and instinct tell me that giving the public more influence over decision-making is likely to lead to less development, not more of it.

It appears, however, that Whitehall recognises this too. Because for all the cosy-sounding references, it is difficult to avoid the conclusion that the effect of the proposals will be to dilute the influence of communities over decisions – to reduce democratic accountability, rather than increasing it.

Nowhere is this unspoken objective more clearly revealed than in this plaintive extract from the white paper itself: "Planning decisions are discretionary rather than rules-based: Nearly all decisions to grant consent are undertaken on a case-by-case basis, rather than determined by clear rules for what can and cannot be done." And this is the nub of it; what the Government proposes will significantly limit the discretion of councils, and the opportunities of the communities that they represent, to influence the delivery of development, and instead centralise power to a large extent.

Just look at the long list of measures proposed: a zoning system that grants outline permission, or creates a presumption in favour of it; taking housing targets out of the hands of elected committees and imposing binding ones set by Whitehall; removing from councils the power to negotiate their own planning obligations; expanding the category of delegated decisions, thus depriving committees of a key element of their democratic role; limiting the right to public consultation on applications; creating a “fast-track for beauty” (whatever that means); widening PD rights to achieve a “gentle intensification of our towns and cities”; and, finally, awarding successful appellants a planning fee refund and thus threatening under-resourced authorities with a disincentive to refuse marginal schemes.

Offered in compensation is the exciting sounding promise to “move democracy forward” – which in plain English appears to mean trying to make the local plan-making process more user-friendly. This includes such profound democratic innovation as the opportunity to engage in local plan consultation “whilst on-the-go on a smartphone”... Well, you can get an app for almost anything these days, but my forecast is that this one won’t be topping the Apple Store Most Downloaded list any time soon.

There’s a serious point here though: unenlightened though we might think they are, the majority of the public tends to view the planning system as, well, boring, except when threatened with the immediate prospect of development in their back yard. The idea, for example, that crowds of iPhone-addicted rail commuters might be tempted away from the indisputable delights of YouTube skateboard tutorials (or whatever) by the opportunity to examine (for example) proposed settlement boundary changes is charming but unrealistic. Putting aside the obvious point about the suitability of a tiny screen for viewing long documents and large plans, the likelihood is that, as now, few people will engage with the system until they feel forced to, by which time, under the proposed arrangements, it will often be too late. The truth is that these proposals offer little in the way of compensation for the substantial loss of democratic accountability elsewhere in the system, and the prospect of rebuilding public trust this way appears accordingly limited.

The impossible challenge faced by the planning system – the Holy Grail for policy makers – is to strike a balance between, on one hand, delivering the development that is economically and socially essential, and, on the other, protecting the right of communities to influence land use in their surroundings. The conflict between the need for development, and the ingrained cultural hostility from a property-obsessed and change-resistant society crammed onto a small island is eternal and, to my mind, largely unresolvable. Like most governments since 1947, however, this one appears predictably convinced that it has cracked it. The enthusiasm is rather engaging, and of course time will tell, but whilst I am convinced that this is not the first time I have read the words “radical reform” in a planning consultation paper, I am equally sure that it will not be the last.

What is clear, in the meantime, is that the effect of the white paper will be to re-adjust the balance in favour of development and away from public influence. Whatever your view on the merits of that adjustment, it is, I suggest, not entirely consistent with the way in which Whitehall chooses to describe it. A little like my recent tentative attempts at the kickflip, which begin with so much promise but tend to stagger into something rather less elegant, the substance of the white paper fails to live up to the rhetoric that introduces it.

Harry Spurr
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