

What are the implications of a 'presumption in favour of sustainable development'?

The introduction of a presumption in favour of sustainable development was anticipated to be in the Localism Bill, it was not. However, as 'The Plan for Growth' and Ministerial Statements confirm, it remains a key part of intended changes to the planning system in England. Ann Skippers of Charisma Spatial Planning and Sean Nicholson of WSP explore what it might mean.

'Open Source Planning', the Conservative Party Green Paper provides some clues:

"the presumption will be that individuals and businesses have the right to build homes and other local buildings provided that they conform to national environmental, architectural, economic and social standards, conform with the local plan, and pay a tariff that compensates the community for loss of amenity and costs of additional infrastructure".

It continues:

"We will legislate that if new local plans have not been completed within a prescribed period, then the presumption in favour of sustainable development will automatically apply. In other words, if a local planning authority does not get its local plan finalised in reasonable time, it will be deemed to have an entirely permissive planning approach, so all planning applications will be accepted automatically if they conform with national planning guidance".

Although the presumption in favour of sustainable development was not incorporated in the Bill it did feature in DCLG's Business Plan published in November 2010, which set out the intention to:

"Introduce as part of the national planning framework a strong presumption in favour of sustainable development".

It is widely expected that the Coalition Government intends to press ahead with the presumption in favour of sustainable development, but that it will appear in the national planning policy framework (NPPF). Speaking at an industry seminar in January, John Howell MP, Parliamentary Private Secretary to Greg Clark as Minister of State for Decentralisation, is reported to have said that the coalition's presumption in favour of sustainable development would be a 'golden thread' running through the new planning system. Howell said councils that failed to plan for new development would be 'assumed to have a completely permissive planning system'. A developer could then build 'what they like, where they like and when they like' provided they met new national planning guidance being worked up in tandem with the Localism Bill.

In a recent twist to the tale, Greg Clark has indicated that the presumption might form part of the localism legislation after all. Mr. Clark has indicated that he will consider a Labour amendment which proposes that the presumption would apply if an up-to-date development plan was not in place after a given deadline.



The 'Plan for Growth' published in March provides more detail, it states:

2) The Government will introduce a powerful new presumption in favour of sustainable development, so that the default answer to development is 'yes'.

2.11 The Government will introduce a new presumption in favour of sustainable development, a principle which will underpin the entire National Planning Policy Framework. This will set out the Government's clear expectation that the default answer to development and growth should be 'yes', except where this would compromise the key sustainable development principles set out in national planning policy.

2.12 The presumption will reinforce a pro-growth emphasis on plan-making. It will require local authorities to work promptly to accept applications that comply with up-to-date plans and national planning policies. Local authorities will be expected to have an up-to-date core strategy in place. Where local authorities do not have plans for development, or they are silent, out of date or indeterminate, this policy will mean that local authorities should start from the presumption that applications for development and job creation will be accepted, for example, in relation to disused commercial premises or former Ministry of Defence sites. The Government will publish a draft presumption in favour of sustainable development in May 2011, alongside details of how it proposes to integrate the presumption into national planning policy.

Eric Pickles (Press Release dated 23rd of March) expresses the default answer to development differently from the statement above, highlighting how important the terminology is going to be:

The answer to development and growth should wherever possible be 'yes', except where this would compromise the key sustainable development principles set out in national planning policy

The 'Plan for Growth' points to the need for an up to date Core Strategy, this is significant as earlier comments talked about an adopted 'local plan.' However Core Strategies are by their nature strategic documents so it would seem sensible that the statutory elements of the LDF are in place as quickly as possible.

The British Property Federation (BPF) has highlighted the need for the definition of a presumption in favour of sustainable development to be '*tautly drafted*'. It is easy to see why the BPF might say this. We don't know the level of detail that the national planning policy framework will go into, but we do know that it is the Government's intention to streamline existing national policy. There is a big gap between local level policies and the NPPF. The gaping hole left by the abolition of regional spatial strategies will not be filled entirely by the duty to cooperate or local enterprise partnerships.

Significantly, the assertion made in earlier statements that a local authority without a completed local plan will have an entirely permissive planning approach seems to fly in the face of other elements of the Localism Bill that are intended to increase the involvement of local people in decision making. It also means how sustainable development is defined in any presumption will be hugely important.

In a scenario where every planning application is judged against an adopted plan, which had itself been drawn up having regard to the NPPF, the presumption in favour of sustainable development should not be significantly different from the existing presumption in favour of development that accords with the plan. After all our existing plans should contribute to the achievement of sustainable development and development plan documents must already contain policies which contribute to the mitigation of, and adaptation to, climate change.

But for those authorities without a completed 'local plan,' there is every chance that a permissive approach could lead to development that is less sustainable than it might otherwise be. And how and who is going to assess whether development is sustainable? It is worrying that the Coalition Government regard the presumption in favour of sustainable development as an incentive to development just at the time when we need to ensure that quality of development is not compromised in these difficult economic circumstances.

In another twist, Greg Clark (Press Release 23rd of March) raises the prospect of the presumption in favour of sustainable development being loaded in favour of potential economic benefits:

*Benefits to the economy should, where relevant, be an important consideration when other development-related consents are being determined, including heritage, environmental, energy and transport consents. The Secretary of State for Culture, Olympics, Media and Sport, the Secretary of State for the Environment, Food and Rural Affairs, the Secretary of State for Energy and Climate Change and the Secretary of State for Transport have consequently agreed that to the extent it accords with the relevant statutory provisions and national policies, **decisions on these other consents should place particular weight on the potential economic benefits offered by an application.** They will reflect this principle in relevant decisions that come before them and encourage their agencies and non departmental bodies to adopt the same approach for the consents for which those other bodies are directly responsible.*

Much more clarity is needed on what will constitute sustainable development and how this might be assessed, and how local communities will be able to actively engage with such a permissive approach. In the meantime local authorities should continue to work on their Local Development Frameworks. Otherwise we are potentially in for a 'free for all' that will not only make a mockery of our widely respected plan-led system, but also damage the quest for sustainable, high quality development and the very principles of the big society.

Who we are



Ann Skippers is Director of Charisma Spatial Planning and Immediate Past President of the Royal Town Planning Institute. Charisma Spatial Planning has a varied client base across the UK and specialises in feasibility studies, planning application and appeals and interim management for local authorities. Ann regularly lectures on planning issues and offers training for professionals and councillors on a wide variety of topics. Ann has particular experience in community engagement and supporting local groups to get to grips with the planning system. An experienced facilitator and conference chair, Ann is also a well-known speaker and commentator on planning issues. She can be contacted at ann@charismaspatialplanning.com



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