

OPEN SOURCE PLANNING GREEN PAPER

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Executive Summary

A broken system

The planning system is vital for a strong economy, for an attractive and sustainable environment, and for a successful democracy. At present, the planning system in England achieves none of these goals. It is broken.

The purpose of the planning system is to reconcile, in the most equitable and efficient way possible, competing economic, social and environmental priorities, at the national and local level.

To rebuild Britain's broken economy, we have to reinvigorate our construction and development industries and the investment that goes with them. Without a transformed planning system, our chances of getting the investment and growth we need will be hampered and possibly crippled, because today's centralised, bureaucratic planning system gives local communities little option but to rebel against Whitehall and regional diktats and, all too often, against the notion of development itself. The result is that far from achieving central targets, we are seeing historically low levels of house building which fail to match the needs of our economy or our society.

To protect our environment and improve our quality of life, we need a planning system that enables local people to shape their surroundings in a way that, while heeding global and national environmental constraints – carbon, biodiversity, landscape, heritage – is also sensitive to the history and character of a given location. But our present planning system, while offering some vital protections, imposes too many one-size-fits-all rules and inhibits communities from finding imaginative and sustainable solutions to the inevitable tensions between development and conservation.

To establish a successful democracy, we need participation and social engagement. But our present planning system is almost wholly negative and adversarial. It creates bureaucratic barriers rather than enabling communities to formulate a positive vision of their future development. Many local politicians and council officers have tried to make the current system work, but as power over planning has been taken away by Labour from locally elected representatives and given to bureaucrats in Whitehall and in regional government, so the mistrust of the planning system has grown along with an increase in protest and in the use of judicial review. It has not just been the planning system which has been a victim of this. Tragically, the very idea that development can benefit a community has also become a casualty.

Radical change

Our conception of local planning is rooted in civic engagement and collaborative democracy as the means of reconciling economic development with quality of life. Planning issues drive members of the public to become engaged in local political campaigning and decision-making. Communities should be given the greatest possible opportunity to have their say and the greatest possible degree of local control. If we get this right, the planning system can play a major role in decentralising power and strengthening society – bringing communities together, as they formulate a shared vision of sustainable development. And, if we enable communities to find their own ways of overcoming the tensions between development and conservation, local people can become proponents rather than opponents of appropriate economic growth.

Open Source planning

Given the scale of the problems we face, piecemeal reform of the planning system is simply not an adequate response. Only a radical reboot is going to deliver the planning system that we need to succeed in the years to come. Our answer to this challenge is to reject the Government's centralising, corporatist attitude and instead to adopt an approach we have called Open Source planning.

Open Source is a concept which originated in the software industry, where it aims to make computer programming open to all in a highly flexible and adaptable way. Its values of transparency and free access have held out the chance of opening up the software industry to better quality software at a lower cost than before. We believe this is just the approach our planning system also requires.

Rather than have one planning structure determined centrally and then applied unvaryingly across the country, we want to create a planning system where there is a basic national framework of planning priorities and policies, within which local people and their accountable local governments can produce their own distinctive local policies to create communities which are sustainable, attractive and good to live in.

Local decisions over local plans

The creation of an Open Source planning system means that local people in each neighbourhood – a term we use to include villages, towns, estates, wards or other relevant local areas – will be able to specify what kind of development and use of land they want to see in their area. This will lead to a fundamental and long overdue rebalancing of power, away from the centre and back into the hands of local people. Whole layers of bureaucracy, delay and centralised micro-management will disappear as planning shifts away from being an issue principally for “insiders” to one where communities take the lead in shaping their own surroundings.

As with our other policies designed to bring competition to public service provision (for example our plans to empower parents and voluntary groups to provide new schools), Open Source planning will engage local communities and foster a spirit of innovation and entrepreneurship.

A framework of incentives for development

We have already set out in a previous green paper our commitment that when your community builds more homes, central government will match pound-for-pound the extra money that your area gets through council tax for six years – and when your community attracts more businesses, we’ll let your area keep the increased business rates for six years. Now, in this green paper, we also commit to allowing neighbourhoods to keep some of the money contributed by developers to councils at the time when planning approval is given. This will generate real cash for local communities, be a real incentive for local people to welcome new homes and new businesses, and be a powerful symbol of the new collaborative approach we want to take to development.

A new system for national infrastructure

In addition to promoting sustainable local development, it is crucial that our new planning system allows for timely development of infrastructure projects of national importance, such as major transport and energy projects. To address this challenge, we will establish a democratically accountable version of the major infrastructure planning system introduced by Labour – providing a parallel at national level to the local accountability and civic engagement which will be promoted by our new local planning system.

Our policies in brief

Our new Open Source planning system will mean that:

1. for local housing, local infrastructure and the local environment:

a. we will eliminate large amounts of unnecessary bureaucracy by:

- abolishing the entire bureaucratic and undemocratic tier of regional planning, including the Regional Spatial Strategies and national and regional building targets;
- amending the Use Classes Order so that people can use land and buildings for any purpose allowed in the local plan;
- abolishing the power of planning inspectors to rewrite local plans – so long as they comply with national standards, are sensibly related to neighbouring communities, and have been developed by a fair and proper process, they will be approved; and
- limiting appeals against local planning decisions; (such decisions will be challengeable by developers or local residents only if they involve abuse of process or failure to apply the local plan);

b. we will create a new system of collaborative planning by:

- giving local people the power to engage in genuine local planning through collaborative democracy – designing a local plan from the “bottom up”, starting with the aspirations of neighbourhoods;
- encouraging upper-tier authorities (e.g. county councils and unitary authorities), which are responsible for infrastructure such as waste, roads etc., to compile infrastructure plans; and
- giving all local planning authorities and other public authorities a Duty to Co-operate so that there is a sensible conversation between all those involved in shaping neighbourhoods and the landscape.

c. we will create a system of approvals which is much more open and responsive by:

- establishing a presumption in favour of sustainable development: 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;
- ensuring that significant local projects have to be designed through a collaborative process that has involved the neighbourhood; and
- giving immediate neighbours a new role – with a faster approvals process for planning applications to which a significant majority of the immediate residential neighbours raise no objection. This will give developers a strong incentive either to design buildings in ways that do not adversely affect immediate neighbours (perhaps by involving immediate neighbours in designing these new buildings), or to reach voluntary agreements that recompense immediate neighbours for any loss of amenity.

2. for infrastructure of national significance:

a. we will abolish the unelected Infrastructure Planning Commission whilst retaining its expertise and fast-track process within government;

b. we are likely to use private or hybrid Bills to promote very major linear projects like high-speed rail – ensuring a proper Parliamentary process;

c. we will ensure that all other major infrastructure projects like power stations:

- are considered at planning inquiries which have binding timetables, and which are governed by the national planning framework (see below), so that they focus on planning issues and are not held up by discussions of wider policy such as the desirability or otherwise of types of power generation; but
- are given final planning permission by a democratically accountable Minister, informed by the conclusions of the inquiry, with the decision subject to a specific time limit; and

d. we will provide transitional arrangements for projects already before the Commission to ensure that these projects are not disrupted or delayed.

3. at national level, for all forms of development:

a. we will publish and present to Parliament for debate a simple and consolidated national planning framework, which will set out national economic and environmental priorities, and how the planning system will deliver them;

b. as part of this we will issue a reduced number of simplified guidance notes, setting out minimum environmental, architectural, design, economic and social standards for sustainable development; and

c. we will maintain national Green Belt protection, Areas of Outstanding Nature Beauty, National Parks, Sites of Special Scientific Interest and other environmental designations which protect the character of our country's landscape, stop unsustainable urban sprawl and preserve wildlife.

Labour's failing planning system

Labour's contribution to the planning system has been to introduce new layers of bureaucracy and to strengthen Whitehall's control over local communities.

The present planning system in England was created by the Government's Planning and Compulsory Purchase Act in 2004. The system is plan-led i.e. the presumption is that specific development decisions will be made in accordance with Government-approved development plans for each area.

The first of these plans is a Regional Spatial Strategy which is produced by regional government on the instructions of central government and which attempts to set the overall context of how a region will develop. These Regional Spatial Strategies are prescriptive and detailed, and impose specific house-building targets on every local authority in the region.

The second type of development plan is the Local Development Framework (LDF), that has to be drawn up by each of the 368 Local Planning Authorities and which sets out, in a series of separate but interlinked documents, the detailed development policies for that local authority area. The requirement that Frameworks must comply with the relevant Regional Spatial Strategy, combined with frequent interference from civil servants and planning inspectors, severely limits the extent to which these local plans truly reflect local opinion.

Indeed, so complex is the Local Development Framework process that the Government's target of seeing all Frameworks in place by 2007¹ has long fallen by the wayside. Recent figures show that to date just 50 Frameworks have been signed off by the Planning Inspectorate, representing less than 14% of English councils.²

The introduction of Regional Spatial Strategies and Local Development Frameworks has been a failure. Indeed, the confusion and complexity created by the new system is such that the Government had to pass another two Acts³ to try and rectify the consequences of their own defective legislation. So we have now had three major pieces of planning law pushed through Parliament in the last five years.

A recent survey of planners found that 97% of respondents believed that the introduction of a Local Development Framework, referred to by a planner as a "resource hungry beast", had not resulted in a quicker process for plan-making. Commenting on the findings, the chief executive of the Town and Country Planning Association described as "recurring themes...the complexity of the system, consultation fatigue, a confusing range of documents in a system too often alien to the public with huge requirements for supporting material."⁴

The present Government has attempted to speed up the planning system by introducing binding targets requiring councils to deal with a specified percentage of planning applications within a certain period of time. Unfortunately, the processes required of councils are so detailed and bureaucratic that it is simply not possible to speed up the assessment of all planning applications. *The perverse result of Labour's central planning targets, therefore, has been to encourage local authorities to turn down applications in order to reach a decision*⁵ and to ensure that the vast majority of application decisions are made not by elected councillors, but by salaried officers.

The Government's approach of retaining strong central control over planning means that, in many cases, people feel that they have no say over development taking place in their areas. Local communities feel that their views are being ignored and that they are having development imposed upon them. All too predictably this sense of disenfranchisement often leads to antagonism. The result is an inherently adversarial system with opposing parties spending large amounts of time and money fighting each other, rather than seeking an agreed solution.

But it is not just at local level that the planning system suffers from democratic deficit. At regional and national level the Government has done everything in its power to prevent Parliament from having a say on planning policy and to exempt Ministers from being publicly accountable for planning decisions by hiding behind unelected quangos where there is any chance of a planning issue being politically contentious. Regional Spatial Strategies, and the unelected Regional Assemblies that were tasked with creating them, have borne the brunt of public anger over housing numbers when all they are doing is implementing central government policy. And for major infrastructure planning such as new nuclear power stations or airport expansion, the Government has sought to hide behind the creation of the Infrastructure Planning Commission.

Our solution – a new Open Source planning system

We believe that only radical reform will allow us to address the many flaws in the current planning system. We will use an innovative Open Source approach to overhaul how planning works from top to bottom. This will decentralise and streamline the planning system and allow it to focus on promoting sustainable development that local communities want.

The decentralisation of power is a core principle for the Conservative Party. We have already published a number of green papers detailing how we will shift power away from centralised bureaucracies and into the hands of individuals, communities and councils. As with housing, schools and local government, so with planning – to create a genuinely responsive service, power must be given to those who are directly affected by that service.

But localising control over planning decisions is only one part of the package of modifications that are needed to create a new Open Source planning system and help to kick-start development. The three key tenets that underpin our radical plans for an Open Source planning system are to:

- restore democratic and local control over the planning system;
- rebalance the system in favour of sustainable development; and
- produce a simpler, quicker, cheaper and less bureaucratic planning system.

In the following sections we spell out how the planning system would look under a future Conservative government, driven by these three core principles.

Local housing, local infrastructure and the local environment

Getting rid of regional planning

We have already outlined in *Control Shift* and *Strong Foundations*, our decentralisation and housing green papers, the fundamental failings of Labour's regional planning system, and have explained why we believe we should remove the regional planning layer altogether. **We will abolish the entire bureaucratic and undemocratic tier of regional planning, including the Regional Spatial Strategies, the Regional Planning Bodies, and national and regional building targets.** We anticipate primary legislation in the first year of a Conservative government to achieve these changes, as part of a broader Local Government and Housing Bill.

This policy is even more pressing given the disarray that the Regional Spatial Strategy process is currently in. Both the East of England and South East Regional Spatial Strategies have been subject to High Court review, and Ministers have delayed the publication of the final South West Regional Spatial Strategy to pre-empt similar legal challenges.⁶ This fiasco has left the planning system in limbo with a huge number of councils and developers unable to make progress on planning applications.

Given the urgency of the problem, **we will consider whether to use the executive powers of the Secretary of State to revoke the Regional Spatial Strategies, in whole or in part, prior to primary legislation.** And we will publish our proposed policy changes and draft legislation as part of a necessary process of consultation required in law. These documents will have the status of 'emerging policy' and will therefore permit local authorities to amend elements of Regional Spatial Strategies which they find undesirable, even before primary legislation is passed.

Having removed the regional planning architecture, control over development will revert to the local level, with no statutory planning documents between the national planning framework (and its associated guidance notes) and local authorities' new Local Plans (see below for more detail).

In contrast to the unelected regional tiers of government across England, London has a different, clearer constitutional settlement. However, there is still scope for further devolution down to the Mayor and Assembly, and down to London boroughs. We are consulting colleagues in the GLA and the boroughs on the scope for more decentralisation in London.

Flexible Zoning

The present planning system deals not just with proposed new development, but also with the uses to which land and existing buildings are put. Under the Town and Country Planning (Use Classes) Order, all the various uses for buildings and land are grouped into a number of categories, or classes (shops, restaurants and cafes, hotels etc.). Planning permission is not required for changes of use within a particular class (e.g. general industry) or, in limited cases, between categories (e.g. from a restaurant to a shop). However, any other change in use entails seeking and obtaining planning permission.

The categorisation of land use into Use Classes is sensible. However the requirement to gain planning permission for changes of use has two considerable disbenefits. Firstly it creates a significant amount of work for local planning authorities – figures show that there were more than 30,000 change of use planning applications in 2006-7.⁷ Even more importantly, the bureaucratic hurdle of needing planning permission to change the use of a building can act as a disincentive to development and so stifle economic and physical regeneration.

We will amend the Use Classes Order so that people can freely (i.e. without planning permission) change the use of buildings within a range allowed by the local community in its local plan. We will retain the current categorisation of uses (and start with an explicit assumption that all current approved existing uses are legitimate), but **allow councils to specify in their local plans the kinds of use they are content to permit for the buildings and land in each given part of their area.**

We anticipate that most local communities will take the opportunity offered by such Flexible Zoning to adopt a significantly more relaxed approach to changes of use of existing buildings. For instance, they might say that buildings within a particular area can be used for any purpose except general industrial use, or that a street can be used for any kind of retail or service provision. And for those areas where the council chooses not to stipulate what types of building it does and does not want to see, the presumption in favour of sustainable development will mean that any development is permitted.

Our new Flexible Zoning system will allow councils to retain control over changes of use when this is deemed to be socially or environmentally necessary and will mean that developers are not able to force through development such as inappropriate conversions where these are not in the interests of the local community.

Removing power from the Planning Inspectorate

We believe that the planning priorities and policies – the vision for the development of a community, produced by local democratically-elected representatives following a process of collaborative democracy – should not be overridden by central government inspectors. **We will therefore remove the planning inspectors' powers to change local plans.**

Instead of having the power to ride roughshod over local sentiment by effectively rewriting these plans (as at present), **the Inspectorate will be asked to report to the Secretary of State on any direct breaches of national planning guidance and process**, to ensure that the plan has been produced within the statutory framework and to ensure that the plans are genuinely spatial, i.e. they take neighbouring plans into account so that, for example, developments which straddle local government boundaries are consistent between plans. All other issues will be left for local determination. In determining whether a plan is spatial there would be an incentive for local councils to submit plans quickly to ensure that their view of the spatial distribution of development will guide neighbouring local plans.

An inspector examining a local plan will do so transparently and in a public forum that allows local authorities, developers and other interested parties to make representations on whether the plan is in compliance with the national planning framework, has followed due process and is spatial. And, **where the Secretary of State finds that a local plan breaches national planning guidance, is not appropriately spatial, or has not been produced within the statutory framework, it will be for the local planning authority to amend and resubmit its local plan.**

This will assure the Secretary of State that every local plan has been drawn up in a professional manner, following the appropriate procedures. **Beyond these matters of process, all other aspects of a local plan will be determined by local people.**

The Secretary of State will not have the power to rewrite local plans or change the magnitude of any locally derived housing targets included in local plans. But planning inspectors will have to consider whether the local authority has conducted a professional assessment of the housing need for their locality (i.e. following best practice guidance). Should the Secretary of State be advised that any local authority has not adequately performed this task, he or she will reject the local plan in question.

It will not be for the Secretary of State to specify or comment on how or where a local authority incorporates in its local plan the results of its assessment of housing need – such issues of judgement will remain entirely for local determination.

When determining what is sustainable development for their area, councils will draw on the environmental, architectural, economic and social standards set out in the national planning framework. But, as one element of the framework is the presumption in favour of sustainable development, a sign-off by the Secretary of State would legitimise the view of what is sustainable in the local plan. This means, after sign off, a local plan – including its own local definition of what constitutes sustainable development in that area – will not be contestable in the courts except by way of judicial review of the Secretary of State's actions.

Likewise, decisions on specific planning approvals taken by a democratically accountable local authority should be regarded as sound unless it can be proven otherwise. Therefore **we will reform the existing planning appeals system. Firstly, we will make the system symmetrical by allowing appeals against local planning decisions from local residents, as well as from developers. Furthermore, we will limit the grounds for appeal against a local planning permission to just two:**

- 1. that correct procedure was not followed in assessing the application,**
- or**
- 2. that the decision reached is in contravention of the local plan.**

Since all local plans will be assessed by planning inspectors to ensure that they comply with national planning policy and guidance, decisions perceived to be in contravention of national planning policy will not be grounds for appeal.

And we will create a new twin-track, two-stage process for the assessment of planning appeals. **Appeals made on grounds of abuse of process will be dealt with by the Local Government Ombudsman (LGO), whereas an appeal concerning correct application of the local plan will be handled by the Planning Inspectorate.**

In both cases we will introduce a mechanism for weeding out frivolous or malicious appeals which would significantly delay development. The first assessment stage will rapidly determine whether there is a case to answer, with appeals only being fully considered by the Local Government Ombudsman or the Planning Inspectorate if they pass this first stage.

Our new appeals system will be significantly swifter and cheaper than judicial review, although judicial review will remain as an extra option for anyone unhappy with the decision of the Ombudsman or the Planning Inspectorate. This will mean changes in the powers of the Ombudsman to give him some teeth and ensure that, as is the case with the Planning Inspectorate, his or her decisions about due process are complied with and that those who have appealed to the Ombudsman have effective redress.⁸

A new system of collaborative planning

Local plans

The Local Development Frameworks introduced by the government have not only failed to speed up plan making, but have also been a bureaucratic nightmare to complete. They are excessively detailed, consisting of an entire suite of documents, all of which are interlinked. Above all, they are not expressions of a vision of the locality that emerges from the people of that locality.

We will make a truly local plan, built out of a process of collaborative democracy, the centrepiece of the local planning system. New local plans will, of course, have to conform to national environmental, architectural, economic and social standards and constraints. But within this national framework, the local plan will be truly local. It will define what the people of a given locality – through a process of collaborative democracy – mean by sustainable development for their area.

Recent academic research has found collaborative democracy – the idea that citizens should be actively involved in making the kind of decisions hitherto reserved for bureaucrats and elected representatives – to be a highly successful concept. We believe that the production of new local plans is a process that is ideally suited to the use of collaborative democracy. By building local plans from the bottom up so that they genuinely reflect the will of the people, we will help communities to come together so they can solve their collective problems together.

We will therefore give local people the power to engage in genuine local planning by **mandating that all local authorities use collaborative democratic methods in drawing up their local plans.** Following the publication of this green paper, we will consult widely on the models of collaborative democracy best suited to local planning. We will draw both upon relevant experience inside the UK (e.g. in the collaborative development of village plans) and on relevant models from other countries. We will aim to identify a range of different methods of involving the neighbourhood in developing the local plan, so that local areas can experiment in drawing up their own plans. But we will expect to see, at a minimum:

- the evolution of the plan starting at ‘ground level’ in neighbourhoods with every single resident of the neighbourhood approached to take part;
- the provision of good data by the local planning authority to the electors in the neighbourhoods, so that they can develop their vision for their community on a well-informed basis (this will need to include analysis by the council of the likely need for housing and for affordable housing for local people in each neighbourhood, as well as details of infrastructure and services planned by other agencies and the third and private sectors);
- the full involvement of democratic representatives at all levels (parish and town councils, ward councillors, accountable residents’ associations and other elected representatives), as well as consultation with other interested parties; and
- a presumption that the ‘modules’ of the local plan provided by each neighbourhood will be incorporated in the final plan unless there are strong grounds for modifying them; but also
- a role for the planning authority itself in helping neighbourhoods to develop their visions and in brokering a rational and coherent plan for the area as a whole, on the basis of negotiation with each of the neighbourhoods and with all the relevant public agencies responsible for infrastructure and the environment.

In order to align incentives and responsibilities, **we will legislate to ensure that neighbourhoods will receive a proportion of the local tariff (see below) raised from all development.**

The creation of genuinely local plans will give communities and councils more freedom to set energy efficiency and renewable generation requirements for new developments, for instance by including requirements for Combined Heat and Power systems in plans for town centres.

Transition arrangements

There has been a degree of apprehension that some local authorities will take the opportunity of moving from the current set-up to our new Open Source planning system to put a brake on house building. While we are confident that the combination of collaborative democracy and our council tax, business rates and local tariff incentives will be sufficiently persuasive to encourage local authorities to embrace development, we will also legislate to ensure that the production of new local plans will be achieved within a reasonable timescale.

Specifically, **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.

We will also put in place transitional arrangements to cover the implementation of our new planning system. During the transition, current local planning documents will continue in force, but local authorities will be able to review them to undo unwanted planning policies which their Regional Spatial Strategy had imposed upon them, such as building in the Green Belt or loss of woodland. Initially, in practice, any such reviews will only be a partial revision by councils – changing elements that are particularly damaging in a way which can be done without delay. Transitional arrangements for the specific planning issues in the Government’s housing growth areas e.g. Joint Planning Committees, will be dealt with in a later paper.

On the question of projected housing numbers, local planning authorities have already projected the number of houses they (as opposed to the regional authorities) believed would be necessary by 2026 for local needs – the so-called Option 1 numbers – and where they might most sustainably be developed. Unfortunately the present Government refused to believe that local authorities were capable of accurately gauging future local housing demand and, in many cases, interposed to impose significantly higher housing targets. We believe that the original, locally generated estimates are a reasonable assessment of housing need, including affordable housing. We therefore expect that these Option 1 numbers will be used by local authorities as the base-line for the projections that they provide to neighbourhoods at the start of the collaborative planning process, and will be used as provisional housing numbers in their Local Development Frameworks until their new local plans are completed.

As part of the process of arriving at robust, locally determined projections of housing need, local authorities have also identified land suitable for accommodating future housing. It will be for local people and their elected representatives to decide how far these remain part of their new local plans, with the supply of land required forming part of the local plan’s definition of what is sustainable in each of the areas it covers. There is general acceptance that a five-year land supply provides a good base line from which to work. We will issue best practice guidance but councils will see the need for these calculations to be robust if they are to avoid legal challenge on the grounds that the local plan has not followed proper process in determining what would and would not constitute sustainable development.

Affordable housing

As with housing in general, we do not believe that centrally derived targets are the answer to delivering the affordable housing that the country needs as rigid targets fail to take into account local preferences and local market conditions. The failure of the current target-led system is compellingly illustrated by the fact that the delivery of new social housing has halved under Labour.⁹ Therefore, under our localised planning system, local authorities will no longer have affordable housing targets imposed upon them by regional bureaucrats. Instead they will be able to decide for themselves what level of affordable housing to provide to meet their local needs, using their previously projected Option 1 numbers as a starting point. And they will be able to include in their local plan a requirement that a certain proportion of all the housing developed in their area, or part of their area, must be affordable housing.

Instead of centralised compulsion, we will use incentives to ensure that both local authorities and developers have a strong financial interest in delivering new affordable housing. First, as we described in *Strong Foundations*, all affordable housing units delivered will qualify for an enhanced version of our council tax incentive scheme. Specifically, to encourage the building of affordable housing, we have decided that **every new affordable housing unit that is built will earn the local authority in question 125% of the council tax raised by that unit, annually for a period of six years, to be paid through our Matching Fund.**¹⁰ This will induce councils to promote the development of affordable housing (by means of their local plan).

Second, as we spell out below, affordable housing will be exempt from our replacement for section 106 and Community Infrastructure Levy payments – the local tariff. This will act as a powerful economic incentive for developers to include affordable housing as part of their proposed development.

We are confident that these substantial financial incentives, combined with National Affordable Housing Programme grants to help subsidise construction, and the introduction of Local Housing Trusts, the majority of which we anticipate will want to build some homes for social rent, will deliver substantial amounts of affordable housing where it is needed.

Good design

The quality of the built environment is crucial in creating liveable communities. We want to encourage the creation of buildings which are practical, sustainable, affordable and attractive, and also deliver social goals, for instance by ‘designing out’ crime. We must promote the highest standards of architecture and design. Not only is this a desirable end in itself, but it is an important factor in encouraging communities to support new development.

We will therefore expect local authorities to set out architectural and design standards in their local plans.

Local infrastructure

We believe that the introduction of a regional planning layer has been an expensive failure and have no qualms about dismantling it. However, that is not to say that there is no need for co-ordination at a spatial level higher than individual local planning authorities. There will always be some elements of planning, in particular the provision of the various types of infrastructure that support development, that will require some form of co-operation between adjoining local authorities. Historically, leading such co-operation in two tier areas has been the role of county councils, which have also had planning powers over minerals and waste. We do not intend to disturb this arrangement.

We do anticipate that local authorities will want to work with appropriate adjoining local authorities to plan the various types of infrastructure required to support future and ongoing development in their areas. For this purpose **we will encourage unitary or upper-tier authorities to take a strategic view and take the lead in compiling Infrastructure Plans**, which will set out how those authorities intend to deliver infrastructure (e.g. waste, roads, etc.) consistent with the local plans adopted in each local area.

In order for local authorities to be able to anticipate the nature and dimension of future infrastructure needs, they must have access to all the relevant information concerning proposed development. At present, this can be hampered by insufficient sharing of information between the relevant bodies regarding current and potential future development. We will open up the information flow between public bodies (Primary Care Trusts, schools, the Highways Agency, etc.), along with the utility companies, so that all the relevant development information, including any plans produced by these bodies, is actually seen by all the other bodies in that area. And **we will legislate to give all local planning authorities and other public authorities a Duty to Co-operate** which will ensure that they consult all the relevant parties, including all bordering local authorities, in drawing up their plans including infrastructure plans.

In keeping with the philosophy of our Open Source approach, all this information will be published in an Open Source format on the web – so that it is accessible and all the information is presented in a meaningful manner.

A more open and responsive system of approvals

Presumption in favour of sustainable development

Although we are determined to reassert local control over local planning decisions that does not mean that we want or expect communities to turn their backs on development. Indeed we believe that the country needs to see a major upswing in development and construction as soon as possible, and we will enact policies to make it happen. We have already announced our plans to use fiscally neutral financial incentives to encourage local authorities to promote the development of new houses and new businesses.¹¹ But we also believe that, in redesigning the overall framework for planning, it is right and proper that the system be underpinned by a predisposition in favour of sustainable development.

Therefore we will counterbalance our introduction of genuine local planning control, by **making it a guiding principle of the planning system that there is a presumption in favour of sustainable development. Specifically, we will make it unlawful for a local planning authority to refuse permission for a development if:**

- **the application is from a Local Housing Trust that has the required level of local support and meets certain standard criteria including conformity with the national planning framework, or**
- **the application**
 - (i) conforms to the local plan (and hence with the national planning framework) ; and**
 - (ii) is accompanied by a payment of the agreed level of local tariff (as described below) from the developer to the local planning authority; and**
 - (iii) in the case of larger projects, is the product of an appropriate public consultation process e.g. Enquiry by Design (or similar).**

All construction built as a result of the presumption in favour of sustainable development would, of course, still need to comply with local design and building control regulations.

A presumption in favour of sustainable development will give the planning system an inbuilt bias towards the creation of appropriate new houses, offices, schools, shops and other development. Our emphasis on local control will allow local planning authorities to determine exactly how much development they want, of what kind and where. But unless they use their local plans explicitly to rule out particular types of development in specific areas, the planning system will automatically allow applications to be approved.

This radical shift towards sustainable and appropriate development will act as a catalyst to jump-start thousands of projects, both large and small, that will play a key role in fostering sustainable growth. By creating a presumption in favour of sustainable development, we are explicitly affirming that we consider sustainable development to be a fundamentally good thing for the country and a vital driver for delivering an enhanced level of well-being for each and every community.

It is important that the greater autonomy offered by the presumption in favour of sustainable development is not abused. Therefore **we would want to see vigour put into taking enforcement action against such abuses and where needed will give local planning authorities new enforcement powers to tackle planning applications that, having been granted, turn out to be substantially misleading**, for instance misleading neighbours about the scale and design of the development proposed. We will legislate to provide that, in these circumstances, the planning authority can revoke the permission, a decision that would be judicially reviewable.

House building

In our previous green papers we have explained at length how and why we will be rejecting the current Government's counterproductive housing targets, and instead offering local authorities a powerful council tax matching incentive to encourage new house building. We believe this incentive will prove strong enough to produce the scale of house building the country needs. However, **we will keep the level of this council tax incentive under review in order to ensure that it does deliver.**

In addition, we have indicated how individual communities will be able to bring forward small-scale development within their own area on a limited basis outside of the local planning process, by the creation of Local Housing Trusts. These Trusts will allow villages and towns to develop the local homes that local people want, provided there is strong community backing. The type and quantity of housing to be built will be for the community to decide, but we anticipate it could be a mixture of market housing for sale, affordable housing for rent, sheltered housing for elderly local residents, or low-cost starter homes for young local families struggling to get on the housing ladder. All non-market housing built by Local Housing Trusts will remain in local ownership in perpetuity, ensuring that future generations can benefit.

As well as housing, Local Housing Trusts will be allowed to assist the community by providing other services for the benefit of local people. For instance, they might offer long-term, low-rent commercial accommodation for a village shop on a serviced tenancy, a community hall, or a sports facility.

One of the best examples of individuals taking responsibility for housing is in self-build. Self-building can mean people literally building their own homes or hiring a contractor to build it for them once they have the land and the planning permission. It also often refers to groups of people coming together to pool their skills and build a number of houses collectively, neighbours literally building their community. Successful projects also can involve unemployed and unskilled people, young and old, who would otherwise struggle to find employment and housing.

Self-built homes rely on being affordable and because they are the ultimate representation of having a stake in a home and a community, they are usually more environmentally friendly and built to higher design and quality standards.¹² As part of our progressive Conservative vision for housing, self-built homes – like Local Housing Trusts – are a perfect embodiment of individuals and families taking responsibility where, under this Government, the State has sucked power out of communities. Giving more power back to local people and self-builders can increase the creation of successful communities and the revitalisation of existing areas across the country.

Planning obligations

It has long been an accepted feature of the English planning system that local planning authorities can attach stipulations to the granting of planning permission for a development in order to make that development acceptable in planning terms. In the last decade, the scope of planning obligations (often referred to as section 106 agreements, after the legislation¹³ that provides for them) has expanded beyond site-specific remediation and adaptation to cover a wider range of contributions towards the cost of the additional infrastructure used to support new developments, as well as the provision of affordable housing as part of a development.

The greater reach of planning obligations has made section 106 agreements much more complex, with the result that they can in some cases take years to negotiate between the local authority and the developer. Clearly this is not an optimal use of scarce local authority planning resources. But despite these problems, the Government has legislated¹⁴ to allow local authorities to introduce an additional planning charge to fund infrastructure, to be called the Community Infrastructure Levy (CIL). Having originally been due to come in last year, the implementation of CIL has now been delayed until April 2010. Perhaps due to widespread confusion as to how CIL will operate alongside section 106 agreements, research shows that only one in five local authorities plans to introduce a CIL¹⁵.

We believe that the principle of expecting developers to make a contribution towards the additional infrastructure needed to make their development viable is sound. However the Government's proposed twin-track approach is unnecessarily complicated and does nothing to address the uncertainty and delays that currently exist in agreeing planning obligations.

We will simplify the system by **returning planning obligations to their original function by limiting their use to stipulations relating directly to site-specific remediation and adaptation.** At the same time, **we will scrap CIL and non-site-specific planning obligations and instead introduce a single unified local tariff applicable to all residential and non-residential development (even a single dwelling), but at graded rates depending on the size of the development.**¹⁶

Each local planning authority will set its own local tariff rates and will publish them in its local plan. A percentage of the money raised by the tariff from each building constructed will be passed down to the community in which the development takes place. Affordable housing units will be exempt from paying the tariff, as will all development by Local Housing Trusts and all self-build housing.

This will give developers much greater certainty about how much a proposed development will cost. It will also give councils a locally controlled source of funds to pay for the infrastructure needed to underpin the renewal of their areas, as well as allowing them to reallocate some of the many officers currently employed simply to manage lengthy negotiations on convoluted planning obligations.

Collaboration in design

To help ensure that the development that takes place is genuinely sustainable, we need to develop an approach to planning that allows for much greater collaboration between the various parties. By properly canvassing all the various stakeholder interests in a site, and reflecting these in the scheme as it emerges, support for it is created between all parties, so encouraging co-operation rather than confrontation. We want to get local communities involved in deciding, at the outset and in concert with developers, the quantity and type of residential and non-residential development that is needed in each area.

A distinct and apparently successful methodology along these lines – called Enquiry by Design – has recently been piloted in the UK by the Prince’s Foundation. Enquiry by Design is a highly participative, cross-disciplinary process for defining detailed spatial plans, masterplans and regeneration frameworks for identified (usually large) sites. In addition to Enquiry by Design, there are other methodologies, such as Charettes, which can be used to achieve collaborative design.

We believe that collaboration with the local community in design is crucial and **we will legislate to 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.** In order to provide confidence to residents that these public consultations will be meaningful, we will make the depth of collaboration a material planning consideration in determining an application.

Immediate neighbours

All new development affects a local community at two different levels. Firstly there is an impact on the wider area, for instance in greater demand for council services, which will be dealt with by the proceeds of our local tariff, as well as our radical council tax incentive policy. Secondly there is a much more localised impact on those in the immediate vicinity of a new development. But, although these immediate neighbours may see a specific and personal amenity suffer because of a development, there is, at present, no way to ensure they can receive any recompense.

To address this issue, **we will legislate to provide that, if more than a small minority of residential neighbours in the immediate vicinity of a new development (of any type) raise any objection, then the conformity of the planning application with the local plan must be formally assessed by the local planning authority.** We will consult further on the precise proportion of immediate neighbours whose disapproval will trigger a rejection of the presumption in favour of sustainable development. We will consult further about the definition of “immediate vicinity”.

Of course, in the case of larger developments, those responsible for development will engage with these neighbours as part of the comprehensive and compulsory consultation process that precedes their planning application and this process alone may lead to unanimous local support (or at least the absence of local opposition). **However we anticipate that in many cases developers will choose to avoid the need for formal assessment of the application, and hence speed up the planning process by reaching voluntary agreements to compensate nearby householders for the impact of the development on their amenity, in return for their support.** The ‘significant majority’ rule will act to prevent development being held up by a small number of immediate neighbours and will give all neighbours an incentive to be reasonable in their demands, lest most of their neighbours sign up before they do.

We will also add another layer of democratic engagement, by providing that the parish council (should there be one) in which the development takes place will count as a set of immediate neighbours for the purposes of this policy, so that developers will tend to negotiate with parish councils about their plans, and may choose to negotiate a voluntary agreement with the parish council to compensate for any loss of civic amenity. We will consult about the weighting to be attributed to the parish council for the purposes of the ‘significant majority’ rule.

This genuinely decentralised bottom-up approach to development will strengthen grass roots engagement with the development process. When people feel they have a genuine say on the merits of any development local to them, they are much more likely to take a positive attitude towards the benefits that it will bring.

A cheaper, more effective planning system

The combined effect of our policies to make the system of planning approvals more open and responsive, allied to our wider strategy to transform the planning system, will have a significant effect in reducing the number and complexity of planning applications that need to be assessed in detail by local planning authorities. These changes will also cut significantly the time and money required to prepare and submit a successful planning application, thus encouraging development.

Infrastructure of national importance

Labour’s approach to the delivery of major infrastructure projects has been glacially slow and resolutely bureaucratic. In the last decade there has been a number of extremely lengthy, extremely expensive planning inquiries on key national infrastructure projects such as Heathrow Terminal 5. Unfortunately, these inquiries have frequently not focused on the key question of ‘whether proposed development is in accordance with national planning law’ but, rather, have become protracted examinations of conflicting views on national policy.

The Government’s response has been to create a new quango – the Infrastructure Planning Commission (IPC) – and to introduce new National Policy Statements for specific types of development such as airport expansion and nuclear power stations. But these new arrangements are fatally undermined by Ministers’ determination to wash their hands of any responsibility for making major infrastructure planning decisions. Under Labour’s proposals, the Commission will have the power to build over the Green Belt, demolish listed buildings, compulsorily purchase land, and overrule local planning rules and guidance, despite having no democratic accountability. And there will be no proper Parliamentary ratification of the National Policy Statements.

We have already indicated that **we would abolish the Infrastructure Planning Commission while retaining its expertise and fast-track process. We will do this by creating a specific unit for major infrastructure projects (the Major Infrastructure Unit), with its own special character, within a revised departmental structure that includes the Planning Inspectorate.** At the same time we will integrate the National Policy Statements into our revised and simplified system of national planning guidance.¹⁷

In place of the Infrastructure Planning Commission we will divide major infrastructure projects into two broad categories and we will adopt different approaches for each type. **For very major linear projects, we will revise the procedures for hybrid or private bills to allow these projects to be approved more simply and directly by Parliament.** This method was successfully used for Crossrail and we are likely to use it for our proposed new high-speed rail system.

All other major infrastructure projects will be decided by short and focused planning inquiries carried out by the new Major Infrastructure Unit and governed by our new national planning framework. Such inquiries would be run by senior planning inspectors who would have much of the freedom enjoyed by judges in the courts to provide the direction of a case by way of pre-trial hearings. This would allow for the lines of evidence required to be clearer and for inquiries to be more focused.

At the conclusion of the inquiries, planning inspectors from the Major Infrastructure Unit will make recommendations to the Secretary of State. **The Secretary of State will then be required to make a final decision on the application within a specified time limit on the basis of the material presented.**

While we are committed to abolishing the Infrastructure Planning Commission, we do not want to see any applications that have begun to be considered by the Commission start the planning process all over again. We will, therefore, introduce transitional arrangements to ensure that any such projects do not have to return to square one.

National framework for development

We believe that, with the exception of nationally important projects, planning should be a local matter, with planning decisions being made at the local level wherever possible. But central government still has a number of key functions in the planning system.

Most importantly, national government has the right and responsibility to determine and define the economic and environmental priorities for the country, and to design a planning system that will help to ensure that the pattern of development matches those priorities.

In the past, Governments have set out their national planning objectives through a series of Planning Policy Guidance notes (PPGs) and more recently Planning Policy Statements (PPSs). These documents are used to convey central government policy on various aspects of development and land use to local planning authorities, who must take their contents into account when drawing up their Local Development Frameworks and making decisions on planning applications. They cover broad policy themes such as planning aspects of climate change, housing, renewable energy, flood risk, Green Belt and waste, and also procedural themes such as how to compile local and regional spatial strategies.

Despite 12 years of attempts to make these guidance documents clearer and more priority focused, they remain sprawling and cumbersome, as well as often being back-breakingly long. As an illustration, since 1 January 2005 the Government has issued a colossal 3,254 pages of national planning guidance,¹⁰ with another 1,000 pages of draft National Policy Statements and associated documents being published recently.

More damagingly, because these documents are produced and revised as and when the need arises, they are piecemeal in nature. There is no over-arching picture of the Government's priorities for the country and the role which planning can play in delivering them. By contrast, the devolved administrations in Scotland and Wales have each set out a simple policy framework of priorities for the planning system in their areas. We believe this is the correct approach and we will seek to replicate it in England.

We will therefore fundamentally reform national planning policy and make it accountable to Parliament. We will integrate into one document – a national planning framework – the principal features of all national planning policies. This simple and consolidated framework will set out not only what the government's economic and environmental priorities are, but how they relate to each other. Such a framework would also set out in general terms (but in sufficient detail to provide clarity) what was expected, both of the planning system and in terms of national infrastructure, to deliver these priorities. **Crucially, this framework would have to be debated and voted on by resolution in both Houses of Parliament.** This will impart genuine democratic legitimacy on the national planning framework and national planning policies, so reducing the scope for planning decisions to be subject to time-consuming legal challenges through judicial review, the European Court of Human Rights and the European Court of Justice.

As part of this framework, the need for the existing PPSs and PPGs will be evaluated and those required will be re-ordered and aligned in order to reflect the national priorities, as determined by Parliament. The result will be a series of short and focused guidance notes describing how specific aspects of the planning system will operate to deliver the government's agenda and setting out minimum environmental, architectural, economic and social standards for sustainable development.

These revised planning guidance notes will also set out the details of any specific planning tools which would be required such as special regimes for urban regeneration, protection of the countryside and woodland, flood prevention etc. In this way, the government will remain responsible for establishing and, when necessary, updating, specific rules on those parts of the country to which the normal planning system does not apply. In particular, **we will maintain national Green Belt protection, Areas of Outstanding Natural Beauty, National Parks, Sites of Special Scientific Interest and other environmental designations which protect the character of our country's landscape, stop unsustainable urban sprawl and preserve wildlife.**

Other planning issues

In addition to our fundamental reform of the entire planning system, there are a number of standalone planning policies that we have previously announced. In the interests of completeness, these policies are outlined below.

Wind farms

We actively support getting more of our energy from renewable sources, including both on-shore and off-shore wind. This will help tackle climate change, create thousands of jobs, and help guarantee our energy security. Britain has some of the best renewable resources in the world – not just on land, but in the wind, wave and tidal power available off one of the longest coastlines in Europe. We should make the most of those resources.

If we are to be successful in this task it is vital that we develop broad public support for the process. On-shore wind farms are not appropriate in all settings: local community consent is vital, and applications will need to be considered in the light of the possible impact on the local environment. This means allowing communities to be active participants in, as well as beneficiaries of, on-shore wind development.

That is why **it is Conservative policy to allow communities that choose to host wind farms to keep the business rates they generate for six years. We are also examining how community ownership of wind turbines can be introduced, as on the continent, and how discounted electricity can be available to communities in the vicinity of wind farms.** This is the sort of fresh thinking that will be required to increase acceptance of wind farms.

Conservation credits

The planning system must be sensitive to the impact of development on the ecosystem services that land provides – clean water and soil for food production, flood alleviation, energy production, carbon sequestration and a habitat for wildlife. Presently, there are few mechanisms to account for the loss of ecosystems when land is developed and our biodiversity has suffered as a result- for instance, some 97 per cent of our flower-rich meadows have been lost since 1945.¹⁸

The existing bureaucratic, regulatory approach has failed to halt biodiversity decline and urgent action is needed to address the loss of vital ecosystems in the face of climate change and development. **Conservation credits are one way of reflecting the importance of diverse ecosystems to our environment.** Conservation credit schemes create incentives to protect biodiversity value, ensuring that fragile ecosystems are protected and there is no net biodiversity loss from new development. Responsible developers are already looking at ways they can reduce their impact on the environment and a conservation credits scheme could build on those steps.

Any system would have to be tailored to the English landscape but a scheme could mean that housing or public infrastructure projects are required to factor in the loss of biodiversity and provide for new habitats or restore existing fragile ecosystems so that local biodiversity is maintained or improved as a minimum requirement. After an assessment of biodiversity loss, a developer would agree to generate credits to at least an equivalent value. An accredited ‘habitat bank’ – run by a local community, voluntary group or private enterprise – would then use the credits to create or manage new conservation schemes such as a wildlife reserve, country park or new woodland creation.

A mechanism that places a value on biodiversity would allow a more comprehensive and strategic approach to the problem of eroding ecosystems. It would appeal to a spirit of social responsibility on the part of developers and harness additional resources for important conservation work. Working together, businesses, local planners and conservation groups could design banks or schemes appropriate to their local environment. Credits could be used by communities to encourage natural flood defences, provide green spaces for local children or create wildlife corridors. By pooling credits the environmental outcome can be improved and larger conservation projects can be established such as wetlands or peatland restoration.

In devising a scheme, we would not want to weaken the existing protection for vital habitats. We would ensure that any measures were in addition to existing safeguards regarding development on green spaces. Any new system must also avoid imposing additional burdens on home ownership and be consistent with our plans to expand the number of affordable homes. We need to make it easier for responsible developers to invest in local conservation projects, not raise the overall costs of development.

Ending the garden grab

Under Labour planning rules imposed in 2000, gardens around homes are classified as brownfield land. With councils being required to follow rigid Whitehall guidelines on the proportion of new housing to be built on brownfield land, the entirely predictable result has been a significant increase in suburban gardens being ripped up and the plots replaced with blocks of flats. **We will abolish arbitrary Whitehall density targets, reverse the classification of gardens as brownfield land and allow councils to prevent overdevelopment of neighbourhoods and stop ‘garden grabbing’.**

Scrapping the predetermination rules

In some councils, candidates standing for election have been advised by monitoring officers that “predetermination rules” mean they must avoid mentioning any controversial local issue, for instance relating to a proposed development, during their election campaign to prevent themselves being barred from voting on that issue if elected. This makes a mockery of local democracy and leads to unwarranted cynicism about politics and politicians.

That is why we have said that **we will legislate to ensure that councillors (while being properly prevented from advancing personal interests) have the freedom to campaign and represent their constituents, and then speak and vote on those issues without fear of breaking the rules of ‘pre-determination’.**

Schools planning

We believe that schools are a good example of the sort of development – with an acute impact but dispersed benefit – that needs to be treated differently by the planning system. Our radical schools policy will encourage the creation of new schools wherever there is demand. However, for the policy to be successful it is essential that unnecessary bureaucracy is not permitted to stifle the creation of new community schools. Therefore **we will ensure that our new planning system will allow for the necessary development of new schools.** Specifically we will legislate to:

- (i) **give an automatic right to change the use of any existing building to educational use as a matter of permitted development** i.e. without the need to seek planning permission;
- (ii) preserve the current stock of land available for new schools by legislating to **require that all existing land that is currently used for ‘non-residential institutional purposes’ (Use Class D1) is kept as D1 land, unless the Secretary of State for Children, Schools and Families agrees to an application for change of use** - this will keep the cost of this land down, so allowing new academy providers to take over, should an existing school close; and
- (iii) **require that planning applications to build new schools be assessed following the same system as for non-linear major infrastructure projects** i.e. decided by short and focused planning inquiries carried out by the Planning Inspectorate and governed by our new national planning framework, followed by a decision by the Secretary of State for Children, Schools and Families. This will allow all the interested parties to make representations, while ensuring that applications are considered impartially, based on national planning law.

We are confident that these policies will allow new schools to be created wherever local people want them. But to ensure that vested interests do not abuse the planning system to stall the creation of new schools, we will give any school promoter a right of appeal to the Secretary of State for Children, Schools and Families in the event of unreasonable delay/objection from any local authority.

And as an additional inducement, we will expand our business rates incentive scheme to encourage new schools. Many of the bodies setting up new academies will be charities and because charities pay very little (and sometimes nothing at all) in business rates, our incentive will not reward local authorities for encouraging the development of new schools. **We will therefore topslice the national business rates pool to create a new fund that will remunerate local authorities that allow the development of new schools as if the schools that are created were not subject to relief and paid full business rates.**

Mobile phone masts

Mobile phone masts are an important part of the nation's infrastructure, especially given the growing demand for mobile data services. But there has been significant public concern about masts being erected with little consultation and in an insensitive manner. We believe that all types of mobile phone masts in England (including Network Rail, TETRA and small/pico masts) must be **subject to the same, full planning process** as other forms of development, so giving local communities a greater say on where they are located.¹⁹ We will also **review the case for greater** incentives for operators to share masts and allow domestic roaming, and will **investigate new technologies**, such as WiMAX and wireless broadband, which have the potential to reduce the number of new masts required. And we will **review potential health issues** related to mobile phone masts in the light of ongoing scientific research.

Travellers

Conservatives believe in social responsibility. Different people, from different communities, should be free to lead their lives in different ways. But this freedom must come with a responsibility to the wider community. The vast majority of travellers accept this, but a very small minority do not.

Planning rules should ensure fairness between the settled and the traveller communities. Local authorities have a role to ensure the provision of suitable authorised sites to tackle genuine local need for their area in consultation with local communities. In addition, recent UK case law has clarified that councils need to provide authorised sites locally if they are to be able to take effective action against unauthorised sites, even though enforcement still remains a major problem.

Where, therefore, councils have made appropriate provision for authorised sites in their area, which reflect local need and historic demand, **we will provide them with stronger enforcement powers to tackle unauthorised development and illegal trespass. In addition, we will introduce a new criminal offence of intentional trespass.**

At the same time, it is important that settled council taxpayers do not foot the bill for the construction of new authorised sites. We will also therefore **reform the system of traveller site funding to councils so that councils are properly compensated for new sites and require travellers to make a contribution to the appropriate cost of services on authorised sites.**

The Human Rights Act affects all the planning, eviction and enforcement decisions made by all public authorities, including councils and the police. It has made it more difficult and expensive to evict trespassers from private and public property, and has overridden planning law by allowing travellers to go ahead with unauthorised development. **We will replace Labour's Human Rights Act with a new British Bill of Rights**, which will help address these problems.

The Labour Government has used the regional planning system and top-down targets to force local planning authorities to build new traveller camps, often on Green Belt land and, if necessary, use their compulsory purchase powers to obtain land for these new traveller sites. Conservatives disagree with top-down building targets, be it for traveller camps or new houses.

As part of the abolition of regional planning and the Regional Spatial Strategies, targets for the provision of traveller camps will be scrapped. In addition we will also scrap John Prescott's controversial guidance on travellers.

In addition, our promise to limit the concept of retrospective planning permission will also ensure that another route by which the planning system has been abused by those seeking to use unauthorised sites will be curtailed.

As a result we will have introduced a legal framework, similar to that which exists in the Irish Republic, to enable councils to remove unauthorised dwellings. This will allow councils to tackle the problem of unauthorised sites including both those built on land which is owned by travellers and land which is not.

Retail development

John Gummer, when Environment Secretary in 1996, put in place planning rules on out-of-town retail development in order to prevent town centre decline (so-called 'PPG6'). As a result, local councils can reject proposals for new supermarkets and retail development outside towns.

The Labour Government has now changed national planning rules on retail development (through a document called PPS4) and has scrapped the 'needs test', which requires developers to prove the need for additional out-of-town development. The needs test gives local authorities an important power to control out-of-town development and allows them to focus regeneration and development on their local high streets.

We will undo Labour's changes to planning rules which have weakened councils' ability to stop unwanted out-of-town development. We will ensure that a needs test is readopted, and will enable local councils to take competition issues into account when formulating their local plans.

Parking

Planning rules on transport issued by John Prescott in 2001 (PPG13) instructs councils to increase parking charges as a 'demand management' tool, to be more aggressive in issuing parking fines and to impose maximum parking standards in new developments. Family homes and flats are being built without sufficient car parking spaces that the market would otherwise provide.

Yet the Government's own publication has admitted: 'CABE research found that car parking remains a significant issue for residents and house buyers. Many people feel that the design for a new residential development should accommodate typical levels of car ownership and that the level of parking in new developments is often inadequate for residents' and visitors' demands. There was a general feeling among buyers of new homes that apparent attempts to restrict parking in order to curb car ownership were unrealistic and had little or no impact on the number of cars a household would require and acquire.'²⁰

Surveys in Kent have confirmed long term anecdotal evidence concerning the parking problems experienced by residents in recently constructed developments where constraint on parking space and/or street space has been applied. Where parking controls are not in place, ownership levels do not appear to be related to the amount of reasonable parking space available. The result of these rules has been greater problems with on-street parking in residential neighbourhoods, cars spilling onto neighbouring streets, the spread of Controlled Parking Zones and increased public resentment against parking wardens and escalating parking fines.

As Simon Jenkins has observed: 'parking wardens... are for millions of Britons the sole point of human contact with government. They have replaced policemen and lollipop ladies as the most ubiquitous figures of communal authority. Yet they are rarely local, and are untrained and unsuited for this exalted role. They may not fraternise and they turn a blind eye to crime or antisocial behaviour other than illegal parking. Officials, who common sense says should become the friendly link between citizens and government, are frigid recipients of public fury. Tony Blair could not have invented a better way of making the public hate local government'.²¹

We will amend this planning guidance to abolish the rules which force up car parking charges. We will scrap all Whitehall parking standards, as they should be a matter for local discretion depending on the nature of the neighbourhood. These changes will encourage the greater provision of off-street parking spaces which will take pressure off clogged-up streets.

Minerals

Planning for minerals is the responsibility of Minerals and Waste Planning Authorities – usually unitary or county councils. While much attention has been focused on our abolition of central housing targets, there is an analogous position in relation to minerals targets which have also been determined by Regional Spatial Strategies and allocated down to minerals planning areas. **We would, therefore, look to repatriate the determination of the amounts of minerals required back to Minerals and Waste Planning Authorities, subject to national environmental standards to ensure that each authority makes its provision in a fair and sustainable way.**

Exception would be made for nationally strategic deposits of minerals, where responsibility for determining amounts would rest with the Secretary of State.

As well as restoring democratic control over a key local, economic and environmental activity, this makes economic sense too. One of the key principles underpinning the industry is ‘the proximity principle’ – that minerals should be used as close as possible to where they are worked. The logic of determining county quotas on a regional basis has long been at odds with this.

In addition, the Regional Spatial Strategy has ridden roughshod over extraction figures put forward by councils and which took local circumstances into account. Many councils have complained that the methodology used in doing this was an archaic, back-ward looking one which took no account of future needs.

Clearly, geography has to play a part in minerals policy; you can only extract where the mineral lies. Mineral deposits do not, of course, respect administrative boundaries. There will, therefore, no doubt be a need for **Minerals and Waste Planning Authorities to work closely with each other where deposits are shared.** Those areas which need to import minerals will be free to make their own arrangements with other authorities or to pursue options such as increasing the amounts of recycled aggregates they use.

Rural planning

As the provider of the majority of our food and the manager of our landscape, the farming industry has a critical role. However, under Labour our farmers have been treated as dispensable, with the result that over the last thirteen years we have experienced major declines in production of meat, dairy and vegetables, and become increasingly dependent on imports of food we could grow ourselves.²² Falls in domestic production not only weaken our food security and undermine the viability of rural communities, but also damage the countryside and threaten our food manufacturing industry, which directly supports 440,000 jobs.²³

Reversing this damaging trend requires a new approach. Our farmland is a national resource for future generations and the very foundation of our food security. However, under Labour the protection of our best farmland has been downgraded and the Government has rejected councils’ calls to keep in place local protection of this valuable asset. **We will introduce into our national planning framework rules preventing the development of the most fertile farmland, in all but exceptional circumstances.**

We also need to prevent the planning system from unnecessarily restricting economic growth in rural communities. National planning policy has failed to counteract the restrictive notions of what is ‘appropriate’ rural business, focusing on agricultural and land-based industries at the expense of other types of enterprise. Farming and land management are, and will remain, crucial to the country and to the countryside, but this should not constrain the growth of other sectors of the rural economy, which accounts for the vast majority of the rural workforce.

Therefore, as announced in our Rural Action paper last year, **we will extend the designation of brownfield land to include land previously occupied by agricultural buildings (erected before a specified date) to facilitate the development of disused buildings for other purposes.**

Building regulations

Under Labour, we believe that building regulations have become unnecessarily prescriptive and overly complex. They need to be simplified and reduced, with a focus on outcomes (e.g. public safety, energy efficiency) rather than box-ticking, and **ensuring that regulation is proportionate to risk**. In particular, we believe that building regulations can play a significant role in the greening of our housing stock.

Blight

A number of recent examples have raised questions about the current blight laws that govern whether properties affected by particular types of public sector development are liable for compensation. **We will review the blight laws to ensure that the system of reimbursement for blight is quicker and that the level of recompense awarded for those properties materially affected by development and potential development is fair.**

Extending the scope of ‘permitted development’

The Killian Pretty review was a Government-commissioned independent evaluation of the planning application process, published in 2008, which made 17 detailed recommendations to create a faster, more effective and more responsive planning system. In order to further streamline the planning system and ensure that it concentrates only on those applications that genuinely merit examination, **we will accept the recommendations of the Killian Pretty review**, where they are applicable to our new Open Source planning system.²⁴ Implementing the Killian Pretty review will cut several more tens of thousands of planning applications from the system, particularly those relating to minor non-residential developments, for instance by introducing permitted development rights for shops, offices and public buildings. **And we will ask Joanna Killian and David Pretty to examine how the planning processes can be simplified further through the introduction of additional permitted development.**

We have previously announced in Power to the People, our decentralised energy green paper, that **we would make the installation of micro-generators a ‘permitted development’ in non-listed properties**; we welcome the fact that the present Government are now consulting on proposals to allow some types of micro-generation as permitted development. And we will alter the rules so that there is a **presumption in favour of planning permission for the installation of micro-generating equipment in, or in the curtilage of, listed buildings, whenever this does not detract from aesthetic quality or architectural and historical interest.**

With the introduction of a presumption in favour of sustainable development, and the exclusion of many residential and non-residential developments from the need to seek full planning permission, we believe that there will no longer be any excuse for those required to seek planning permission failing to do so. Therefore **we will also limit the concept of retrospective planning to permit only the rectification of genuine mistakes**, while recognising that councils will need to use some of their planning resource freed up in a streamlined system to increase their enforcement capabilities.

The construction industry, householders and businesses will not be the only ones to benefit from an increase in the scope of ‘permitted development’. Local planning authorities will also see a sizeable fall in the volume of paper that they have to handle. This, together with our proposals for a presumption in favour of sustainable development and for automatic permission in the case of sustainable development that meets no objections from a significant majority of immediate neighbours, means that local authority planning officers can go back to focusing on what they were originally employed to do – designing and implementing visionary plans for the development of their areas.

Footnotes

- 1 PlanningResource, 5 October 2009.
- 2 Hansard, 13 October 2009, column 773W.
- 3 Planning Act 2008 and Local Democracy, Economic Development and Construction Act 2009.
- 4 Town and Country Planning Association press release, 5 October 2009.
- 5 “The practice of refusing applications purely to get a decision by the due date is becoming widespread”, Gary Halman, commercial planning adviser, cited in Planning, 29 October 2004.
- 6 Planning Resource online, “Strategies under siege”, 9 October 2009.
- 7 DCLG, Killian Pretty Review, 2008, p8.
- 8 We announced in *Control Shift*, our Localisation green paper, that we will make all formal rulings of the Local Government Ombudsman legally binding on local authorities (subject to an appeal to the Secretary of State).
- 9 Average annual number of new homes for social rent under the last Conservative Government (1992-97) was 51,514, compared to an average of 27,453 under the current Labour Government (1997-2009); DCLG live tables, table 1000.
- 10 Our council tax Matching Fund is a revenue neutral policy that reallocates existing local government grant funding. For more details on the scheme, please consult Control Shift, our Decentralisation green paper.
- 11 See *Control Shift*, our decentralisation green paper, published in February 2009.
- 12 Obviously self-built homes, like all other development, must meet all building regulations and local design criteria.
- 13 Section 106 of the Town and Country Planning Act 1990 (as amended).
- 14 In the Planning Act 2008.
- 15 Driver Jonas News, DJ Community Infrastructure Survey results, January 2009.
- 16 The local tariff will not apply to residential extensions.
- 17 Hansard, 23 March 2009, column 74W.
- 18 Daily Telegraph, 28 December 2008.
- 19 Tougher planning regulations for mobile phone masts that allow for greater local control were introduced in Scotland in 2001 and have proved successful.
- 20 DfT, Manual for streets, March 2007, p.103.
- 21 The Guardian, 16 June 2006.
- 22 Hansard, 5 January 2010, column 79W.
- 23 Food and Drink Federation - see http://www.fdf.org.uk/about_fdf.aspx
- 24 This pledge does not apply to any recommendations of the Killian Pretty review that are rendered irrelevant by existing Conservative Party Policy.

