

A year with much resting on its shoulders

What can we expect for the English planning system in the next 12 months?



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2021 already has much resting on its shoulders. With all fingers crossed, it will be the year that: the world emerges from the worst of the pandemic; the UK dusts itself down after Brexit and last year's unprecedented economic shocks and works out where in the world it wants to be; and the government decides what further steps to take towards a new – or at least significantly changed – planning system.

"Assuming business as usual" was the first sub-heading in my equivalent article last year, written in the aftermath of the political froth of Boris Johnson's December 2019 general election win. A false assumption. However, we did see steps taken towards planning reform. Were they in the right direction or not? That debate will continue.

Key themes

The first theme in the coming year will be what the government now does to turn some of the aspirational thinking of the *Planning for the Future* white paper into practical proposals.

Alongside the white paper was the government's consultation over shorter-term measures:

- Changes to the standard method for assessing local housing need, dubbed the "mutant algorithm" by Conservative MPs and others – now scrapped in favour of a revised version of the 2017 formula with a 35% uplift for the country's 20 largest cities and towns.

- The introduction of the new "First Homes" flavour of quasi-affordable housing, notwithstanding the scepticism of the House of Commons Public Accounts Committee: "The department's reliance on developer contributions to fund First Homes is a complex mechanism lacking transparency and risks less money being available to local authorities for housing and infrastructure."

- The temporary lifting, from 10 to 40-50 dwellings, of the small sites threshold below which developers do not need to contribute to affordable housing. A written ministerial announcement was pencilled in for autumn 2019 but still we wait. A case of second thoughts?



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- Extending the current "permission in principle" procedure to major development. Amending regulations were intended in the autumn, with the new system intended to be in force by now. Again, still we wait.

The proposals in the white paper itself were due to be pursued with speed. The government intended that local plans be adopted under the proposed new procedure by the time of the next general election in May 2024. Given that the proposed timeline for each local plan process is 30 months, primary legislation would have needed to be on the statute book and in force by autumn 2021. However, we are some way off that.

Instead, once the Ministry of Housing, Communities and Local Government has trawled through the 40,000 or so responses to the white paper, there is likely to be further consultation during the year on different strands of work: local plans reform; development management reform; digitisation; the infrastructure levy.

MHCLG's consultation closes on 28 January 2021 as to whether to allow the use of properties in the new commercial, business and services use class E to change to residential use without needing planning permission. The proposed permitted development rights, alongside consolidation of the now sprawling General Permitted Development Order, would take effect from 1 August 2021.

Other initiatives

Aside from these changes, we await the government's latest update as to how local planning authorities are performing under the housing delivery test (which was due to be published in November 2020). Underperforming authorities are liable to a heightened presumption in favour of granting planning permission for development.

We also await Defra's delayed consultation as to the proposed reform of EU-derived environmental processes such as environmental impact assessment, strategic environmental assessment and habitats. Indeed, the white paper's proposals are dependent on these changes.

The government's intention was that by the time the UK left the EU we would have equivalent environmental protection by way of the system of "environmental principles" proposed in the Environment Bill and to be enforced by the proposed Office for Environmental Protection. But the bill was much delayed, first by the December 2019 election and then by more pressing calls on parliamentary time. The bill has not yet completed its Commons stages before it heads to the Lords. Enactment of the legislation will only be the start, with the principles themselves then to be developed and the OEP properly established – and in the meantime a vacuum in terms of environmental protection. The legislation will also introduce a tariff regime, requiring biodiversity net gain in relation to most development types.

The government is also late in publishing its *English Devolution and Recovery* white paper – originally mooted to have been radical in its intent, encouraging the trend towards unitary authorities and the establishment of a new series of mayors, with whom the government would put in place mayoral devolution deals. Has the government's experience of negotiating with mayors during the pandemic perhaps tempered its enthusiasm? What changes will be driven by individual authorities' financial circumstances? The government's spat with the mayor of London will continue in the lead up to the delayed May 2021 election and no doubt beyond.

There will be much for us all to focus on. Regardless of whatever "new normal" to which the world around us begins to return, it is certainly not going to be "business as usual" for the planning system.