House of Commons
Environmental Audit Committee

Sustainable Development in the Localism Bill

Third Report of Session 2010–11

Volume I: Report, together with formal minutes, oral and written evidence

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Environmental Audit Committee

The Environmental Audit Committee is appointed by the House of Commons to consider to what extent the policies and programmes of government departments and non-departmental public bodies contribute to environmental protection and sustainable development; to audit their performance against such targets as may be set for them by Her Majesty's Ministers; and to report thereon to the House.

Current membership

Joan Walley MP (Labour, Stoke-on-Trent North) (Chair)
Peter Aldous MP (Conservative, Waveney)
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Powers

The constitution and powers are set out in House of Commons Standing Orders, principally in SO No 152A. These are available on the internet via www.parliament.uk.

Publication

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the internet at www.parliament.uk/eacom. A list of Reports of the Committee in the present Parliament is at the back of this volume.

Additional written evidence may be published on the internet only.

Committee staff

The current staff of the Committee are Simon Fiander (Clerk), Edward White (Second Clerk), Lee Nicholson (Committee Specialist), Andrew Wallace (Senior Committee Assistant), Susan Ramsay (Committee Assistant), Emily Harrisson (Sandwich Student) and Nicholas Davies (Media Officer).

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The Localism Bill

1. The Localism Bill will devolve powers to councils and neighbourhoods and aims to give local communities more control over housing and planning decisions. It includes measures to reform the planning system, the provision of housing and a range of local authority governance issues. The Bill will abolish Regional Spatial Strategies (which set a regional-level planning framework for England) and will establish neighbourhood plans and neighbourhood development orders, by which it is intended that communities will be able to influence council policies and development in their neighbourhoods.¹

2. The Government intends to introduce a ‘presumption in favour of sustainable development’ as set out in the Conservative Party’s 2010 Green Paper ‘Open Source Planning’ and then in the Coalition Agreement.² The presumption is 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.³

The presumption does not feature in the Localism Bill, although it will be included in a new overarching Government planning policy document, the National Planning Policy Framework.

3. The Communities and Local Government Committee has undertaken inquiries on the Government’s localism agenda and the abolition of regional spatial strategies.⁴ Both inquiries have received evidence about potential adverse impacts from the Government’s planning proposals on the environment.⁵ The Localism Bill Committee, which finished its consideration of the Bill on 10 March, received similar evidence that highlighted problems with the accessibility and fairness of the proposed neighbourhood planning process and the presumption in favour of sustainable development.⁶ An opposition amendment was debated in the Localism Bill Committee to address these concerns. The amendment was withdrawn following a Government commitment to address these issues at a later stage.⁷

4. In our First Report of this Session we committed ourselves to scrutinising the extent to which sustainable development is embedded in the policy making of all departments across

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¹ Localism Bill [Bill 126 (2010–11)]
² HM Government, The Coalition: our programme for government, May 2010
³ Conservative Party, Open source planning, 2010
⁴ Communities and Local Government Committee inquiries into Localism and Abolition of regional spatial strategies
⁵ Written evidence for Communities and Local Government inquiries into Localism and Abolition of regional spatial strategies
⁷ PBC Deb, Localism Bill, 15 February 2011
Government. Subsequently, in Mainstreaming Sustainable Development, the Government has set out its vision of how it will do this, and this short inquiry is an early test of this.\textsuperscript{8}

5. In light of the scope of the inquiry by the Communities and Local Government Committee and the evidence received by the Localism Bill Committee, we took evidence specifically on the planning issues affecting local government. On 16 February we took evidence from Friends of the Earth, Campaign to Protect Rural England, Town and Country Planning Association and officials from the Department for Communities and Local Government on the extent to which sustainable development is embedded in the Government’s planning reforms in the Localism Bill.\textsuperscript{9} We would like to thank all those who gave evidence.

\textsuperscript{8} Defra, Mainstreaming Sustainable Development, February 2011

\textsuperscript{9} Ev 1–21
Sustainability of Planning Reforms

6. We welcome the Government’s commitment to put sustainable development at the heart of the planning system and provide people with greater influence over planning in their communities, but we are concerned that the intention to introduce a presumption in favour of sustainable development might not be accompanied by a statutory description of what that means. As a result, the principles of sustainable development —living with environmental limits, ensuring a strong, healthy and just society, achieving a sustainable economy, promoting good governance and using sound science responsibly—are unlikely to be adequately represented in the planning process.

7. The evidence we took highlighted a number of potential risks with the proposed planning reforms, which include:

- **Influencing neighbourhood development**: The use of neighbourhood development orders and neighbourhood development plans raises an issue of fairness. They could favour those who have more time and money to spend on influencing these processes, and could therefore disadvantage those that do not.

- **Monitoring the cumulative impacts of locally determined planning decisions**: When it removes the regional planning tier, the Government will reduce the extent to which the combined impacts of developments on climate change targets and the environment are monitored across England. The replacement arrangements, to encourage cooperation between local planning authorities, are inadequate and poorly described in the Bill.

- **The application of sustainability and climate change duties to neighbourhood planning**: Clauses on neighbourhood planning in the Localism Bill would not fall under the requirements of the 2004 and 2008 Planning Acts. This means that none of the duties placed upon local planning authorities in relation to sustainable development and climate change would apply to the neighbourhood planning processes.

8. The Bill is due for report stage and third reading before the House of Commons shortly. In the Committee a number of amendments were debated which addressed these issues and on 15 February the Minister agreed to return “with a set of Government amendments with the objective of achieving as much consensus as possible”. In the same debate, the Minister also said that:

> [...] I also want to make sure that, for example when responding to new technological developments, we do not end up being constrained by an encapsulation of [...] sustainable development [...]  

9. We agree that a definition of sustainable development needs to allow for future progress, but this is not a reason for holding off providing one. Indeed, this is exactly why it must be defined. At the core of sustainable development is planning for the long-term. A proper definition of sustainable development in planning would not be a barrier to technological

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10 Speech by The Rt Hon Greg Clark MP, Local Planning for Sustainable Development, 10 February 2011
development but would encourage it. A planning system with sustainability at its heart would require planners and developers to consider the inter-linkages between various policy requirements, development impacts and future needs. It would provide a much needed incentive to look beyond the ten year timescale that tends to dominate the current planning system.¹¹

10. The Localism Bill must provide a statutory duty to apply the principles of sustainability in the planning system and other functions of local government. The Bill must also provide a commitment to define the term ‘sustainable development’ in the planning context. An essential prerequisite of such a commitment will be to include in the Bill the five internationally recognised principles of sustainable development as set out in the 2005 Sustainable Development Strategy. A fuller explanation of what sustainable development means in the planning context should then be developed for the National Planning Policy Framework.
Formal Minutes

Wednesday 16 March 2011

Members present:

Joan Walley, in the Chair

Peter Aldous
Martin Caton
Zac Goldsmith
Simon Kirby

Sheryll Murray
Mr Mark Spencer
Dr Alan Whitehead

Draft Report (Sustainable Development in the Localism Bill), proposed by the Chair, brought up and read.

Ordered, That the Draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 10 read and agreed to.

Resolved, That the Report be the Third Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

Written evidence was ordered to be reported to the House for printing with the Report, in addition to that ordered to be reported for publishing on 16 February.

[Adjourned till Monday 21 March at 2.15 p.m.]
Witnesses

Wednesday 16 February 2011

Dr Hugh Ellis, Chief Planner, Town and Country Planning Association,
Naomi Luhde-Thompson, Planning Policy Advisor, Friends of the Earth,
Fiona Howie, Head of Planning, Campaign to Protect Rural England

Robert Ledsome, Deputy Director, Climate Change and Sustainable
Development, Steve Quartermain, Chief Planner, Stephanie Hurst, Deputy
Director, Planning—Environment, and Michael Bingham, Deputy Head,
Planning—Development Management, Department for Communities and
Local Government

List of printed written evidence

1 Friends of the Earth Ev 12
2 Campaign to Protect Rural England Ev 15
3 Department for Communities and Local Government Ev 17
4 The Royal Society for the Protection of Birds Ev 19
List of Reports from the Committee during the current Parliament

The reference number of the Government’s response to each Report is printed in brackets after the HC printing number.

Session 2010–11

First Report  Embedding sustainable development across Government, after the Secretary of State’s announcement on the future of the Sustainable Development Commission  HC 504

Second Report  The Green Investment Bank  HC 505
Oral evidence

Taken before the Environmental Audit Committee

on Wednesday 16 February 2011

Members present:
Joan Walley (Chair)

Witnesses: Dr Hugh Ellis, Chief Planner, Town and Country Planning Association, Naomi Luhde-Thompson, Planning Policy Advisor, Friends of the Earth, Fiona Howie, Head of Planning, Campaign to Protect Rural England, gave evidence.

Q1 Chair: Thank you very much, all three of you, for coming along to our session this afternoon. We apologise for being a little bit late starting, so we might have to speed up a little bit as we go because we do have another set of witnesses in this session.

To get the session going, we are very conscious that there are big changes being made in terms of the Localism Bill and, as a Select Committee, we wanted to try to understand what the Bill means for sustainable development, try to explore the extent to which it should or should not be on the face of the Bill and how all of that links up in terms of strategic thinking. So this is just a one-off discussion, and we are very grateful to you for coming in. I wondered if you could perhaps start off by exploring with us how the Government’s proposal to introduce “a presumption in favour of sustainable development” could change the current planning system. How do you see it working, or what do you see the pitfalls as?

Dr Ellis: I think the presumption is problematic in two ways, and what we try to do in analysing the presumption of sustainable development is firstly to see if we can understand what the Government’s intention is, and that is obviously to write that into the national planning framework rather than into the face of the Bill. It would be the overriding objective of planning to have a presumption in favour of sustainable development.

I suppose the issues that flow from it—just very broadly and quickly—would be that there are two elements: first of all, there is a presumption in favour, and then there is sustainable development. The question: how will sustainable development be defined? It is obviously critical if it becomes a guiding thread principle of planning, and that is a debate that is being actively discussed in terms of amendments, and there are—it seems to us anyway—clear definitions of sustainable development that we could work with.

Then there is a tension between the presumption in favour of sustainable development and the presumption in favour of the plan. That is a second dimension to the problem. I think there is a consensus that we need a strong plan-led system. In fact I would say it is a critical element of delivering sustainable development spatially that you have strong regional, sub-regional and local planning and it is plan-led. That element means, I guess, that you can have some certainty about outcomes, and the process can be democratic. Those two dimensions are absolutely critical.

The reason why it is so important to get a definition on the face of the Bill is that there is a strong cross-Government corporate sign-up to the UK’s sustainable development strategy. That contains five key principles that are vital to delivering sustainable development, so that does give us the basis of our approach.

Q2 Chair: Does that still apply at the moment, in your view?

Dr Ellis: We asked that question of DEFRA officials yesterday and, as of yesterday, the UK sustainable strategy as far as they were concerned was still a cross-Government corporate strategy.

Chair: Thank you. I don’t know if your colleagues wish to add anything to that.

Fiona Howie: I would just add that, as Hugh said, we believe that the plan-led system is critical, especially as the reforms are aiming to empower people. We believe that if there is greater involvement at the neighbourhood and local level to develop plans, but then a presumption in favour that is not in line with the plan-led approach, that will cause yet more tension within the planning system rather than solving some of these issues. We are not against a presumption in favour of sustainable development that is in line with the plan, as long as we can get the right definition of sustainable development.

Naomi Luhde-Thompson: The words “a presumption in favour” are quite difficult to deal with if you have not defined sustainable development very clearly, because that might mean a presumption in favour of any type of development. So we would want to see that definition very clearly on the face of the Localism Bill to say that the purpose of planning is to deliver sustainable development, which is then defined. You
are looking at wording as an objective to further achieve sustainable development.

**Q3 Chair:** Just briefly, do you think that the way that the Committee went yesterday gives you any hope that that might now be coming forward?

**Dr Ellis:** I think the Minister has made it clear that they are willing to think about this, but the structural issues are still there, and one of the structural issues is that there seems to be a rejection of accepting sustainable development as the purpose of planning on the face of the Bill. Historically, we have had purposes of planning on the face of the Bill, so it is not as if it is a novel idea or in any way impossible from a legislative point of view.

Then there was a focus on it being in the National Planning Policy Framework. Of course, since none of us have seen the National Planning Policy Framework, it is very difficult for us to judge what the content would be. I would be very concerned about the general discourse that is circulating, which is that the NPPF will take what is known as a high-growth definition of sustainable development, as if sustainable development were capable of complete redefinition in any circumstance, and it plainly is not.

**Q4 Caroline Lucas:** We have already touched on the definition of sustainable development several times and, at the risk of making the whole of the rest of the meeting define sustainable development, could you say how you think sustainable development should be defined in the local planning context?

**Dr Ellis:** The starting point, I think, is the five principles that flow out of the UK strategy. Let me just take one or two of them and how they might play out spatially. Working within environmental limits is already a very key part of how local spatial planning operates, and Planning Policy Statement 1 makes that issue very key. It would also play out in relation to the varying and vital role of planning in, for example, climate change mitigation and adaptation. The important issue is that you cannot have twin objectives in planning. The overall objective and vision of sustainable development and, basically, planning’s role is how to deal with that spatially: how it plays out in space and how we can make the most of that definition.

Although the operational principles might flow into planning—they might be, for example, town centre first policy; they might be in relation to sustainable housing and transport—all of those things flow out of that core idea. What worries me is that if you change the core idea of planning away from the definition even now, which I think is relatively robust in PPS1, you undermine the purpose and delivery of the system.

**Fiona Howie:** I was just going to mention that the Minister for Decentralisation was good enough to give a speech to CPRE last Thursday, in which he picked up on the importance of sustainable development, which we very much welcome. When elaborating slightly, he mentioned that growth should be compliant with environmental standards, which we felt was a very narrow interpretation of what we would mean by sustainable development and the environmental element of that. To reiterate Hugh’s points, it is a broad area and we have five principles that I think would set up the right framework for that on the face of the Bill, but it does need to go beyond simply environmental standards that are defined at the moment.

**Naomi Luhde-Thompson:** Yes. Essentially, we are taking the five principles from the UK sustainable development strategy and saying they should be on the face of the Bill as part of the overall purpose of planning.

**Q5 Caroline Lucas:** Do you think the Government is adequately involving stakeholders in developing its guidance on sustainable development?

**Dr Ellis:** This is a difficult issue. In our view, it is not sensible to develop a new piece of legislation, like the Localism Bill, without a much more extensive brokering of agreement. That could have happened through a Green or White Paper, both of which were absent from the process. Latterly, with the NPPF, what we have is a consultation, which is very welcome, but there is no document associated with the consultation. It is an invitation to suggest principles. There is active consultation going on from the department now, but I would say that the NPPF is probably the most important policy document for planning for the best part of 40 years, and that means that it really does need to have cross-sector support. The most important and effective way of doing that is to lock all the planning sectors into a room and broker an agreement that can generate consensus. That is not the approach at the moment, but we would very much welcome—because there is time to get this right—a wider and more open discussion, particularly with communities because they are not yet involved in the process.

**Naomi Luhde-Thompson:** Just to add to what Hugh is saying, we have obviously been talking to Friends of the Earth. We have a large number of local groups, and they are now very interested in planning sustainable development. They are very concerned that there has not been any way for them to get involved in the ideation of the Localism Bill— for instance, the process of neighbourhood planning, how it will work, how it will play out in their community, how sustainable development could be achieved through these plans. These are all questions that at the moment it is very hard to engage with, because you are looking at a very technical, difficult piece of legislation that amends four different types of Acts, and it is just very complicated. You have to talk about it for quite a long time in order to get people to some measure of understanding about what is happening in neighbourhood planning and what it means.

Regarding the National Planning Policy Framework, it is a real shame that there is not more engagement now for people and communities to start talking about these issues. We are going out and talking to communities where we can, but of course there should be much more done on that, and we would really like to see that.

**Q6 Zac Goldsmith:** I wondered whether anyone knows the timing on the NPPF.
Fiona Howie: I believe that they are going to publish a draft for consultation in July but CLG might be able to answer that further.

Q7 Chair: Do you see some kind of gap between one piece of legislation and the publication of that, and a limbo period in between?
Fiona Howie: Absolutely. I think the National Planning Policy Framework, as Hugh said, will be essential to taking the new planning system forward.

The fact that the legislation is in the Commons at the moment, in Committee, and we don’t have a draft NPPF is making those discussions more difficult.

Q8 Peter Aldous: Is this gap an creating opportunity for something extremely undesirable to happen? For instance, I am thinking of a town centre first policy. If someone puts in a planning application, say, for an out-of-town food store in this interregnum period, is it going to be more difficult to oppose that application?
Fiona Howie: My understanding is that the existing planning policy remains while the replacement is developed, but I think it is making things—like the discussions around a presumption in favour of sustainable development and whether or not it should go into the Bill—very difficult. Also, I know there have been amendments about the amount of weight that should be placed on the National Planning Policy Framework. Again, we could have a far more sensible discussion about that if we knew what that document might look like.

Dr Ellis: The NPPF becomes even more important in the absence of regional planning. Whatever you thought of regional planning, particularly in retail and town centre first, it was critical because it was the only mechanism of defending the decision of one authority or a group of authorities against the decision of one authority to allow, for example, a large out-of-town regionally-sized retail development. At the moment, with the mechanism going forward, the NPPF will be the only document with which that sort of development can be judged. That means that the content of it, on town centre first, is absolutely correct. I would also add that it also has to be—which is, I know, heresy—to a degree prescriptive. It cannot just be a completely light-touch, rhetorical document. It has to be prescriptive, because if you want town centre first to work, and all sorts of other sustainable development principles, you have to have a detailed impact test to go with it.

Q9 Caroline Nokes: Do you get a sense that in the intervening period, while current planning policies are still in place, there is a rush in some areas to get applications on the system before the framework comes forward?
Dr Ellis: There is certainly an uncertainty, which is largely to do with the process of the revocation of regional planning, which was revoked. That was then found to be unlawful, so regional planning now exists again, but in that period particularly there has been a tremendous amount of housing units falling out of the planning process or planning provisions, so there is a tremendous amount of uncertainty.

Again, if we were starting from somewhere else we would start with a more—again, maybe heresy—gradualist process, with a strong transition plan, so that the Government’s objectives can be understood and implemented, but not in the sense of leaving a vacuum that can be filled. The consequence of that is development that we will live with for 50 to 100 years.

Q10 Caroline Lucas: I just wondered if there are things we can learn from other countries in terms of the way they work on sustainable development, and I wondered, in particular, whether you could give examples of where an assessment for sustainability is made before the development is permitted.
Dr Ellis: There are certainly overall lessons, particularly on climate and sustainable development, of two orders, I think. Firstly, it is assessment tools, where often there is independent commissioning of things like EIAs in north-west Europe. The overriding lesson of places like the Netherlands and other Nordic countries is that they have a strong consensus about the overall spatial direction of their nation. In the Netherlands, it is built on a consensus for 100-year plans, based obviously on flooding, and they have understood the need to have that. If you look at the implementation of perhaps some of our most sustainable places—Freiburg might be one example—they are based on 35-year consensus politically and a strong planning process. If you characterise the opposite, in the UK, we have a tendency on a 10-year cycle to decide planning is bad, deregulate it and minimalise it, then decide we have cross-border strategic sub-regional issues we cannot deal with without it, so we reinstitute it, which is legislatively complicated, and get it back. This regional planning was only on the books for five to six years, which is worth bearing in mind. We only had regional strategies for that length of time before we decided to scrap them. I think if only we could broker this overarching agreement about the objective of planning and its implementation, then the UK, economically and environmentally, would be much better off.

Chair: That is fairly clear.

Q11 Zac Goldsmith: I have two questions. The first relates to the neighbourhood development plans, and based on what we know of the proposals and even the lack of definition or otherwise of what constitutes a neighbourhood, I am interested in hearing from you how important you think they are and how much power they will give communities and local people to define the characteristics and nature of the developments that affect them.
Naomi Luhde-Thompson: I think, in terms of participation, what is quite concerning is that there is no clearly defined process in the Bill—it is all up to the Secretary of State to decide in guidance how that process will work. When the plan is examined, there is no right to be heard. It is default written representations, and that is pretty exclusive, and it doesn’t give the same opportunities to look at the plan, to discuss the issues and to debate them. It really doesn’t. It is quite an exclusive process if you are just
Q12 Sheryll Murray: Don’t you think, though, that some of the fundamental work has already been done through the local parish plans and local town plans, and the neighbourhood plans could just be an expansion of those?

Dr Ellis: There is something very important there, because our quick assessment is that the neighbourhood plans and neighbourhood development orders are not, in a sense, wrong in any way, but they do about 10% of the job that we need to do to make planning open. I say that because, if you have written the parish plan, of which there are many, and many communities have invested in it, that cannot be a neighbourhood development plan without going through the full and extraordinary lengthy complex process of adoption. I think the Bill should contain, at the heart of it, a duty to have regard to those expressions of community views, so that the mass of other informal documents that communities produce, which are at the moment not yet registered or have no legal weight, can have that value. That is very important, because otherwise what we have done is created a kind of Rolls-Royce neighbourhood plan, but created access to it on a very limited basis. There is an easy solution so long as we are able to think more broadly about what community participation might mean.

Q13 Zac Goldsmith: Practically speaking, we do not have sight of NPPF, and whether or not that is a good thing or a bad thing is almost academic at this stage because we have a Bill going through. The question is: what specifically, practically speaking, should we be looking to do to improve this aspect of the Bill, specifically in relation to the neighbourhood plans?

Dr Ellis: This is difficult. I think I would want to broaden the debate out in the way that I described, so I would leave neighbourhood plans and Neighbourhood Development Orders as an option. Then I would say very clearly that we have created this broad duty to have regard to other statements of community view, and I would create guidance to make sure that all the effort that communities place around the parish planning process are absolutely essential to LDF preparation.

My one comment would be that neighbourhood planning has attracted a lot of attention, but because your neighbourhood plan must be in conformity with your LDF, essentially the process that has been set up means that the LDF is where the power is. You cannot argue about housing in a local neighbourhood development plan; its location, numbers or waste. In that sense, it is the LDF that we need to open up. Again, just finally, that is mostly about the culture of planning. That is where the task really is, making sure that planners communicate and making sure communities are empowered.

Fiona Howie: We have around 60,000 members, many of whom are very involved in the planning system, and we are trying to get the message to them that Local Development Frameworks or Local Plans—as they might be renamed—will remain critically important to influence because they will set that strategic direction. I think there are big questions, and lots of our members are asking them, about what can be decided at the neighbourhood level, and I think they can include policies around design, character and distinctiveness, which are all very positive. I think there may be some communities who will be very disappointed that they are not getting the level of power that has been talked about in the past in relation to neighbourhood planning.

Dr Ellis: One of the issues we have to focus on is the balance between strategic and local. We need to have honesty—and this is absolutely the role for the Government—about the fact that there are some things that can be decided effectively locally, and some things that genuinely cannot. You cannot tackle housing and climate change purely on a local basis or purely on a local government basis. So this tension—which is inherent in planning and has always been there—between what the neighbourhoods want and how that is fed up needs an honest final settlement. That final settlement, I think, the Localism Bill does not achieve, partly for the reasons I have described and partly because you have to accept that there is an element—and we are allowed to say this, although it may be unpopular—that there are, for example, wider housing needs, we have to face them. We have to find a way of meeting them in a strategic way, and
it is exactly the same for energy. That is part of the sustainable development objective, because some communities have more environmental capacity than others, for example, or more housing or social needs than others, and that does have to be dealt with strategically.

Q14 Zac Goldsmith: I think you are right. There is an impression that has been created that this is a wholesale transfer of power back to the communities. I think a lot of people are very excited about the prospect of being able to have a much more innovative involvement in the development of the high street, for example. I think a lot of other people think you might be able to have a Tenovus invasion as a result of this, but I think a lot of other people think they will be able to block inappropriate or unpopular developments in their area, all of which I think would be very positive. You have already answered the first part of my question, which is: will this Bill deliver that? I think the answer that all three of you have given me is that it will help to.

The second question is: are there any amendments that you are aware of or that you would recommend, or that your organisations would back, which you think might improve what is basically a very good piece of legislation but which has some gaps, which I hope we will collectively be able to join up? This is a very long-winded question. Fiona Howie: The points Hugh made are very relevant, and I think the issue around housing, for example, is very difficult. I think if it were left to the neighbourhoods to decide, it is quite likely that in many places identified need would not be addressed. It might not be a change in the legislation that is needed, but language about the importance of engaging with local plans, and everyone not just totally getting distracted by neighbourhood plans but still feeding in at the local level, and ensuring that there are processes to enable that to happen, so that people are engaged in those discussions as well as in neighbourhood planning, rather than concentrating on neighbourhood planning to the exclusion of getting involved in those critical discussions. I think that balance needs to be communicated and promoted as the new system is taken forward.

Q15 Dr Whitehead: In your written evidence, you have all in different ways made the distinction between NDOs in parished areas and NDOs in non-parished areas, and suggested that the extent to which parished areas or parishes have a statutory function may vary. There is a different level, therefore, of accountability between an NDO in one area and the other. How does that relate to what you have said already about the extent to which you can reflect sustainability criteria in Neighbourhood Development Plans and the extent to which you have to refer to Local Development Frameworks? Do you think that maybe the distinction between parished and non-parished areas might be better defined in terms of the differences that might result?

Dr Ellis: I think it is absolutely clear that there is a two-tier system, as you suggest, and the one based around parish councils has difficulties but is basically coherent. It seems to us that the one for non-parished areas, which is 60% of the population and based around neighbourhood forums, could never pass into law. It simply cannot stand that three people, or a multiple thereof, who have not been elected, who would not have to disclose a financial interest in the plan they were writing, could possibly form a legitimate unit to make significant neighbourhood planning. The question is how you resolve the problem. In fact, although again this may seem extraordinary, perhaps the heart of the Localism Bill should have been to introduce lowest form local governance into those non-parished areas. After all, most of these areas were parished, historically. In fact, if you want to do neighbourhood planning effectively, accountably and openly, then you need the community council—let us call it that for the sake of argument—operating in urban areas, particularly in urban areas where there are contested ideas about communities of interest or conflict, and the community council—let us call it that for the sake of argument—operating in urban areas, particularly in urban areas where there are contested ideas about communities of interest or conflicting communities of interest: perhaps 30, 40, or 50 different groups who want to deliver that message, but they have to change. Finally, because of the way the legislation is framed, none of the duties on climate change or sustainable development applies to neighbourhood planning, and I think that is another thing that does have to change. After all, what we are saying in the duties is, “Please think about climate change; please think about sustainable development,” which are not onerous duties on neighbourhoods.

Q16 Sheryll Murray: I have heard you mention several times about the three people in the neighbourhood forums, but that is only one criterion, is it not? They do also have to meet a series of tests and pass those before they can be recognised. Do you think those tests should be set out? It is quite strange that they are prescriptive, though.

Naomi Luhde-Thompson: I think there is one test that they do not have to meet, which is the equalities impact test. They are not covered by the Equalities Act 2010 and there is no reference to an equalities impact assessment. I think it would be key to have that in there and at least have that test as part of it. Dr Ellis: Again, the issue for us is that people have suggested, for example, that ward councillors might serve on these forums and that there are ways of incrementally making them more accountable. However, the great criticism of regional planning was that, although there were lots of elected representatives, there was no direct accountability. It seems to me that this is a very wicked policy problem in this sense: can you or can you not make them democratically accountable? It is an “all or nothing” debate, isn’t it? Sure, you can make them a little less unaccountable, but it seems to me that, given that planning is quite contested in urban areas, you must have them democratically accountable from the beginning, so they have some legitimacy in the process.

Fiona Howie: I think there might also be issues around competing organisations. It will be difficult for a local authority if approached by two separate groups—perhaps a civic society and another neighbourhood organisation that has organically
developed—to try to compare and contrast, or broker a deal between the two. I do think there needs to be careful consideration given to criteria to help local authorities make what could be quite a difficult and potentially controversial decision. Again, if the aim is to empower communities, it does need to be transparent so that they can ensure they have made the best decision possible rather than people being turned away and feeling they are not able to take up the opportunities of neighbourhood planning.

Q17 Caroline Nokes: Having parish councils across all of the 65% of unparished areas is quite an interesting prospect, isn’t it? I wanted to move on to regional strategies and their abolition, and the requirement on local authorities to construct voluntary agreements and arrangements where they negotiate with neighbouring local authorities for items that are of more regional significance. Do you think that voluntary co-operation will be adequate?
Dr Ellis: No.
Caroline Nokes: I was expecting that.

Q18 Caroline Nokes: I am glad you moved on to that, because I wanted to pick up on an issue on Local Enterprise Partnerships. We have heard repeatedly that they are to be business-led. In my own experience, from discussions with my locally soon-to-be-established LEP, I know they would like to see democratically elected councillors ousted from the planning process so that business can run it and obviously make “the right decisions”. How do you think they should be involved in the strategic process?
Dr Ellis: At the moment, we have promoted amendments on duty to co-operate that reference LEPs, only because LEP boundaries are the only spatial boundary now left in England beyond the local, so there may be opportunities there. I absolutely agree that since the LEPs themselves are not corporate bodies of any kind and have no legal status, it is very difficult to amend anything to actually place an obligation on them, because they are very ephemeral organisations and, for all the reasons that we have heard, I think the idea of them at the moment in their current form carrying strategic planning powers is difficult. However, what we have tried to do—and it is very much a reserved position—is say that where you are a member of a LEP and where you are also a local planning authority, there are special obligations placed on you around co-operation and sustainable development. The problem with the LEP boundaries is that in the north of England they can be quite sensible in terms of economic functional areas, but in the south of England they are more challenging.

Fiona Howie: I think there are some examples; I believe there is one in the north-west that has recruited to its board not only business interests and local authorities but also other people from academia or from academic institutions, so I think there are some examples of good practice where they are trying to take a more integrated approach, but I certainly do not get the feeling that that is mirrored across all of them. Certainly, we cannot give them a statutory role at the beginning, and I think there is a huge amount of debate about whether that would be a positive option anyway, but they are likely to be looking across boundaries and so may well influence strategic planning via their non-statutory route, but we would not want them to do that unless they do take this more integrated approach to planning.

Fiona Howie: I think they are trying to recognise that it is not just economic growth; things like skills are very important, and that is why they were trying to link to the educational institutions. I think the fact that they are business-led is not a good thing, and I appreciate opening up the board does not make them in any way more accountable or transparent, but I think at least they are looking beyond just saying, “We need economic growth, therefore all we need is business partners to be involved in the boards of these as well as some local authorities.”
Q20 Peter Aldous: Can I go back to what Dr Ellis said? There is obviously a concern that the duty to co-operate does not provide a sufficiently rigid framework and that perhaps the regional tier of Government was too much of a straitjacket. It just alludes to what he might have thought was an alternative way forward, and I would be interested in learning a little bit more about that.

Dr Ellis: We have taken various boundaries, as I said, over the last 60 or 70 years. I think the problems with the regions, in terms of boundaries, were that they were probably at too high a spatial scale. You can image that in an ideal world we can evolve the test for regional planning in England, which is partly based on accountability and transparency but also based on environmental, economic and social functionality, which might be boring but it basically means that planning becomes more effective; it recognises the importance of city regions; it recognises the coherence, perhaps, of rural areas and market towns and sees a variety of different kinds of regions emerging, rather than the nine standard regions.

In that sense, what you have I think is the best of all possible worlds: more ownership, I would hope, from a local authority level of the region. At the same time, you would acknowledge that there must be a regional approach for England’s future. On top of that you also need a national spatial plan, but perhaps I should not say anything more about that. That develops a kind of a mosaic with more buy-in from communities. It will never completely resolve the tension but, ultimately, that must be agreed centrally. That framework has to have an acceptance at the national level for delivering.

Q21 Chair: I am just very conscious about time. We do have another set of witnesses to come before us. Finally, could you tell us whether or not there has been expertise that is embedded currently, providing that support for regional planning in respect to sustainable development, that is lost as a result of this Localism Bill?

Dr Ellis: I would say that I am desperately worried about the loss of expertise, particularly in terms of human resource, from strategic planning to the regional level. The information and data sets are now located at the British Library, but they are not active and they are not being updated except in relation to some aspects of energy. I am also concerned about the loss of a Sustainable Development Commission and the loss of the Royal Commission on Environmental Pollution, which published a report today called Demographic Change in the Environment. Those sorts of documents—and this document in particular—make the case for the need for a regional and strategic spatial approach.

My problem is that without all those background organisations—and you could say the same about the National Housing and Planning Advice Unit—we have lost an entire tier of intelligence-gathering. This is not an ideological case about centralism; it is just about intellectual capital that informs the evidence-based plan. It is going to set back delivery on climate change, in my own personal judgment, by five to 10 years if we lose those organisations.

Chair: Okay. Dr Ellis, Naomi, Fiona, we must leave it there. I’m afraid, because we do have time restrictions on us. Thank you very much for coming at such short notice.

Examination of Witnesses

Witnesses: Robert Ledsome, Deputy Director, Climate Change and Sustainable Development, Steve Quartermain, Chief Planner, Stephanie Hurst, Deputy Director, Planning—Environment, and Michael Bingham, Deputy Head, Planning—Development Management, DCLG, gave evidence.

Chair: Thank you very much indeed for coming before us to our second session this afternoon. I am afraid we are really short of time. I think you sat in to hear the previous witnesses, but I welcome the four officials to the session this afternoon. I think it has to be said that we had hoped to have a Minister, but we do understand that there are other commitments that are being made. We want to try and get straight in and understand where the sustainable development priority is within all of this legislation, and I am going to turn, first of all, to Peter Aldous.

Q22 Peter Aldous: Thank you, Madam Chairman. The presumption of sustainable development in terms of favourable sustainable development is very much key in the coalition Government’s planning reforms. With that in mind, why is there no definition of sustainable development in the Bill?

Steve Quartermain: The view has been taken that Ministers think that they can.

Chair: Sorry, the view from where?

Steve Quartermain: I’m sorry; the Minister’s view is the presumption of favourable sustainable development can be put into policy, and that putting it into legislation might be too restrictive. There are many ways of defining an assumption in favour of sustainable development. They think that by putting it into policy it enables us to talk to people—like the witnesses you have just seen—about what the definition is and how they perceive it, and we believe that putting it into the policy statement is the best way of describing it.

Q23 Peter Aldous: That is in the National Planning Framework?

Steve Quartermain: The National Planning Framework.

Q24 Peter Aldous: Remind me again, when is that due?
Steve Quartermain: We have committed in our business plan to produce a draft by July for consultation.

Q25 Chair: When will it be operational?
Steve Quartermain: I think it is April 2012.
Chair: In 2012, April. Thank you.

Q26 Peter Aldous: Is there a worry that, in the interregnum between the Bill being enacted and that coming in, people could be rather grappling in the dark a little bit, or not?
Steve Quartermain: I don’t think so, and they shouldn’t be, because let us not forget that we are proposing a revision to the planning system, we are not scrapping the planning system—the existing planning system is still there. There is still a requirement for local planning authorities to have their local plans in place. LDFs. There is still existing PPS advice. There is still advice within them that is valid and relevant today. This is about revising the planning system. We are not starting with a blank sheet of paper.

Q27 Peter Aldous: How do you plan to work up the definition of sustainable development that local authorities and then others will use? Will you be using the existing definition or will you be working up a new one?
Steve Quartermain: The Minister has accepted that the principles of the definition that are in the 2005 document will be underpinning the basic principles of our definition. I would just make the point, which is again answering a question that you asked of previous witnesses, about our engagement here. We have called for evidence. The closing date is 28 February. We have asked people to tell us what they want in the NPPF and people—like the previous witnesses—are well-placed to make a contribution to that debate. It is quite an open collaborative process. We want to hear what people have to say.

Q28 Martin Caton: As you have said, the Government already has a definition of sustainable development in the 2005 strategy. It is to some extent the repetition of a question, but I honestly cannot see why that, in planning terms, cannot be put on the face of the Bill.
Robert Ledsome: Quite a complex set of issues are encapsulated in the 2005 definition, and I think it is open to question—and the previous Administration took this view when this self-same debate was taking place in relation to what became the 2004 Planning Act—how far in the legislative framework you can encompass the complexity and the dynamism of the idea of sustainable development. That is why under the 2004 Act there was a high-level statement, and there was reference then to planning policy as a way of fleshing that out. That is very much a similar sort of concept to the policy-based approach that the current Administration is taking forward.
I think it will be quite a challenge for ourselves as policymakers—and indeed lawyers—to find a way of encapsulating the quite complex ideas that are encapsulated in the 2005 principles within the legislation that does not then lead you to either unintended consequences or a constant need to refine it as thinking develops and new ideas emerged about how you can address sustainable development.

Q29 Martin Caton: You heard our previous witnesses who are not strangers to planning policy and planning legislation, and they saw no problem in using the strategy as a basis for something on the face of the Bill. However, I would like to ask something about cross-departmental co-operation on this issue. Are you talking to DEFRA, for instance, about—
Robert Ledsome: Yes, indeed. There is a lot of cross-Government debate going on at the moment, not least in terms of finalising the Government’s response to the Committee’s recent report on embedding sustainable development. The Secretary of State for DEFRA is leading that process. My Department, as with other Departments, is fully engaged with DEFRA in terms of looking at the specifics as well as the more general issues that are of interest to the Committee.

Q30 Martin Caton: Are you near to reaching a consensus on what sustainable development should mean in planning terms?
Robert Ledsome: I know that Ministers are very keen to get the response to the Committee and also to get a more general statement on sustainable development out very rapidly.

Q31 Chair: How have things changed since yesterday on that? I am talking about the deliberations of the Standing Committee on the Localism Bill.
Robert Ledsome: I am not thinking necessarily that the deliberations in the Standing Committee will have a direct influence to bear on the work that has been done, particularly around—
Q32 Chair: In that case, why wasn’t it in the Bill in the first place?
Robert Ledsome: I think, as Mr Quartermain has explained, that Ministers took the view that a detailed definition was not appropriate for the Bill. What I am talking about at the moment is a statement of Government policy that is being worked on and being led by the Secretary of State for DEFRA, which the Government would wish to publish in due course. That would actually help to provide a broader policy framework for what may eventually go into the National Planning Policy Framework.

Q33 Mr Spencer: Could you convince us that the neighbourhood planning process will fairly represent the needs of everybody in communities and get across to all sectors of society?
Steve Quartermain: I hope we can. It is not as though you are planning for a different community. The community is living within a district that has a local plan. It is the same community. It is an opportunity for these people within a neighbourhood to have more say about their particular area and to shape where they live.
I noted a question earlier about parish plans and the like. I have previously been involved with the preparation of parish plans and, as a local planning
authority, we committed ourselves to the adoption of a supplementary planning guide where they had followed procedures, and it was in accordance with the overall aims of our plan. We know that local communities have an appetite to get involved with shaping where they live and I think this is a really powerful opportunity for them to do so, and do more, because they will be able to be involved in allocation of sites and take it further than just parish plans at the moment. This is a really good opportunity.

Q34 Mr Spencer: You would have to acknowledge, though, if you are wanting to gain a planning permission or stop a planning permission and you have key skills or key knowledge, that gives you a bit of an advantage within the current system. I wonder how you are going to give those communities—normal people—those skills and that knowledge base to be able to influence the planning system that they will have.

Steve Quartermain: We have made provision for local authorities to support the neighbourhood plan. There is a duty for local planning authorities to provide support for neighbourhood planning.

Q35 Zac Goldsmith: This is on the same issue. There does not seem to be a clear definition of what constitutes a neighbourhood, and I don’t think anyone knows what powers are going to be accompanying these neighbourhood plans. I think a lot of people are putting a lot of hope in these plans for all kinds of local reasons, and it does not seem to me that the neighbourhood plans are going to solve or answer any of the concerns that people have, whether it is an inappropriate development locally, whether it is the rapidly changing nature of the high streets, whatever it happens to be. My question to you is: are we going to have a definition of neighbourhood? Is it going to be clear to us what constitutes a neighbourhood, how one qualifies in order to be able to create a neighbourhood plan, and what the value of those neighbourhood plans will be in real terms?

Steve Quartermain: In view of your time, I could just say yes.

Zac Goldsmith: We are going to have all that?

Steve Quartermain: You will have guidance on it. There is guidance being prepared. I believe that the Minister has made it very clear that they see that this is about a neighbourhood plan that is in the context of a broader plan. This is about consistency with a plan. This is not an opportunity for people to block development. The Government is very keen to be clear that their planning process is pro-growth; it is about developing a culture that sees growth as a good thing. Neighbourhood plans can play a very important part in that and we will be issuing guidance about how people can get engaged. That guidance will be targeted towards those people who will be engaged with the process. In terms of the definition, there may be different definitions of what a neighbourhood is, but there is a safeguard in the local authority having a say in that.

Q36 Zac Goldsmith: Could you give one example of a really tangible, radical area where a neighbourhood plan will make a difference? Give an area where local people will be able to flex their muscles and see an outcome.

Steve Quartermain: I don’t think there is a neighbourhood in the country where that opportunity will not be there.

Q37 Zac Goldsmith: What kind of thing, though? At the moment, it seems to me that people might be able to argue about how many car parking spaces are arranged in the local supermarket lot, but it doesn’t seem to go much deeper than that. I am trying to understand in real terms what communities and neighbourhoods will be able to do to influence the shape, nature and form of the places they live as a result of these neighbourhood plans, and I cannot yet imagine what that is, because nothing seems to have been put forward.

Steve Quartermain: When I was a Director of Planning and Environmental Services in a North Yorkshire authority, a village came to me and said they wanted to develop 30 houses. They wanted eight of them to be affordable; they wanted new access to their playing field and they wanted a new village hall. The local plan at the time was contrary to that. It said, “No, no, you are not a village where that development can take place; in our hierarchy of settlements, you would not be expected to get 30 dwellings.” In a neighbourhood planning world they would be able to do that. They would be able to get their plan together; they would be able to draw up their proposal; they would be able to get the community to vote for that; and if more than 50% of people wanted it, they would be able to do it. That is for me a really powerful example of how a community can achieve development that suits their requirements.

Zac Goldsmith: Even if it conflicts with the local plan.

Q38 Sheryll Murray: Can I take you back to where you were talking about training of local neighbourhood people to participate and draw up the plans? How much sustainable development training will that include? Planning training has always existed for quite a while now for parish councils, but will you be incorporating any training with regard to sustainable development on that, or do you envisage that local authorities will be introducing that sort of training?

Robert Ledsome: I think aspects of sustainable development and environmental issues are already being accommodated within the professional training that is being provided by the professional institutions. There are other services that have been funded to provide guidance and help for planning authorities.

Q39 Sheryll Murray: Is that compulsory at the moment?

Robert Ledsome: It is not compulsory in the sense that local authorities have to provide the training. It is a service that has been available.

Steve Quartermain: There is a requirement for Royal Town Planning Institute members to have 50 hours of CPD every two years. Sustainable development is part of that training, but I want to stress that this is not just
a process for planners: it is for people who plan. So there will be a whole range of people who are—

Q40 Sheryll Murray: I was referring to people who participated in the neighbourhood planning authorities, setting up their neighbourhood plans. Will you be providing them or will you be introducing a requirement for local authorities to provide them with adequate training, taking into account sustainable development?

Michael Bingham: I think it is fundamental to the support that local authorities can be expected to give that they would be addressing sustainable development as part and parcel of that, because that is central to the planning system and what planning is trying to achieve.

Q41 Chair: On that process: while previous witnesses were sitting there, they did refer to the abolition of certain pieces of expertise, and I would include the National Housing and Planning Advice Unit and the environmental data there. With all of that gone, how are these local practitioners at local authority level going to be able to link up with the local people to have regard to information or to be able to make informed decisions on sustainable development?

Steve Quartermain: The Government has done a couple of things in that respect: first of all, it has made some funds available to local Government for the support of neighbourhood planning, but it has also—

Q42 Chair: Are those ring-fenced?

Steve Quartermain: No. Chair: No, not ring-fenced, okay.

Steve Quartermain: There is a fund that they have just offered to organisations who want to bid to be part of a scheme to support the delivery of neighbourhood planning. That is plainly different from training, but it is about delivering capacity and trying to ensure that people understand how neighbourhood planning will work, and the Government is hoping to issue a number of grants to a number of organisations who can work with the community to help them achieve neighbourhood planning.

Q43 Mr Spencer: What I cannot understand is—it comes down to this definition of neighbourhood and local, I suppose—what happens where you get communities that are close together and an application, for example, for a wind turbine that one village favours because it will benefit them but the neighbouring village sees the wind turbine and doesn’t want it, or if one village wants to expand its school but the neighbouring village thinks that that will put its school under pressure. How do you balance those?

Chair: And what mechanism is there to balance that?

Steve Quartermain: You have to remember that the neighbourhood planning—this was mentioned earlier—has to be in conformity with the plan. There is always an element of numbers. The housing numbers in particular were never a floor target, and there was always some flexing in numbers. I come back to my earlier point that neighbourhood plans have to be seen in the context of a local plan, so it will be the local planning authority who is likely to make decisions on that, and there will be policies within the local plan. I think Hugh Ellis referred to it; there will still be a plan that will determine things such as wind farms.

Q44 Caroline Nokes: I want to take you back to your comments about hierarchy of settlements. When local planning authorities are deciding the hierarchy, they do tend to look at issues of sustainability in terms of access to local services, schools, pubs, shops, and so on, and if your village falls very far down that hierarchy then obviously the presumption is not for development. If villages were to come forward with proposals for quite a significant level of housing in terms of some smaller villages of, say, 30 or so, how would the sustainability of that be assessed against the local desire?

Steve Quartermain: That partly brings us full circle to where we began, which is why it is not on the face of the Bill, because I think the Government recognises that sustainable development will differ in terms of your circumstances. What is sustainable for a smaller settlement is different from a larger place in a different part of the country, and there needs to be this flex. You will find that most local development plans already have a view about what is sustainable. What we are hoping to achieve through neighbourhood planning is some flex in the system that will allow people to be more self-determining about what is sustainable for their community.

Q45 Dr Whitehead: Taking it up the other end, isn’t there just a fundamental problem that, on the one hand, we are going to have a presumption of sustainability in the National Planning Policy Framework, but if all the intelligence, planning and organisation at any level between the very local and the national level has gone, how does anybody know at local level—or indeed at national level—whether any of the various activities going on at local level do cumulatively lead towards benefits as far as climate change, sustainability and biodiversity, if people are concerned, or lead away from it? In principle, it looks as though you have a presumption of sustainability that could be completely meaningless because no one can monitor or understand what that presumption may mean.

Steve Quartermain: I think my starting point there is the assumption that the evidence was collected at a higher level. A lot of this evidence was already being collected by local authorities and fed into a higher level, so I think it is quite wrong to assume that all this evidence has disappeared. The evidence is there and the duty to co-operate, which the Government is promoting, will ensure that this evidence is shared. It is part of the duty to co-operate: sharing of evidence and providing evidence to other people. This evidence is not just held at a—

Dr Whitehead: They may do that.

Steve Quartermain: There is a duty for them to do that.

Q46 Dr Whitehead: Yes, there is a duty to co-operate in general terms. People may co-operate in
general terms but, as far as I can see, there is no duty to provide that information upwards and collaboratively in a way that could produce the outcome that you are suggesting.

**Michael Bingham:** I think there are two things here. We know from the past, before we had the current round of regional planning, that authorities have collaborated naturally on that sort of thing because it is in their interest to do so and to share information about common issues and interests. The other thing is that the Minister for Decentralisation emphasised yesterday that he did recognise there was an opportunity to strengthen the duty to collaborate. He said he will go away and look at that. That may be part of your answer.

**Q47 Sheryll Murray:** Without a strategic planning tier, how will you monitor the cumulative impacts of local decisions on climate change, biodiversity and wellbeing across the nation?

**Chair:** Mr Quartermain? Mr Bingham?

**Michael Bingham:** Sorry, I will lead on that one. There is a hierarchy of assessment, so while you may not have the formal regional planning tier, of course plans produced at the local authority level are still going to be subject to sustainability appraisal that incorporates the requirements for strategic environmental assessment. That cannot be done in isolation. Local authorities have to think about the wider impacts and consequences of the plans and strategies that they are producing and, as we have just been talking about, they will still be producing information. There are still annual monitoring reports where these impacts and how plans are being implemented over time will be reported. Again, we expect that it will be natural for local authorities to want to share information and for that information to come together where it is reasonable to do so. Again, the duty to co-operate will strengthen that expectation. I think it is through those mechanisms that this will happen.

**Q48 Chair:** Can I just cut through that? I was at a presentation that was given by the Climate Change Committee to Parliament yesterday on the implications of the fourth carbon budget. One of the points that was made was that Crossrail, in terms of how it is currently being planned, is planned for a 20-year future programme. But how will local authorities know at the strategic level the kind of timeline and the needs of the carbon agenda that they need to address in planning terms as well, so that we are not planning infrastructure, for example at that local level, which is going to be out-of-date or affected by climate change, in respect to the point that Ms Murray was making?

**Robert Ledsome:** There are other elements of the process that were introduced under the last Administration that are still retained. In terms of the sorts of issues and examples you have just mentioned, the National Policy Statements are the answer. They are still part of the process and they will set out the long term infrastructure requirements that the country needs in relation to climate change or any other issues. Clearly, as part of the process of developing the NPSs, particularly on those relating to energy infrastructure, for example, then the Government will be thinking about the issues that the Climate Change Committee has raised in relation to the long-term requirements for energy supply, grid decarbonisation and so on.

**Q49 Chair:** I am afraid we have been defeated by the bell. I would like to raise one last issue before we all leave: the issue of the European Union fines. That was something we wanted to cover. I don’t think we are going to be able to have the time for you to give us a verbal response to that, but I think we would be most grateful for a note on what the implications are for local authorities. Should it be in the Bill in respect of the recovery of funds? I am sorry about this noise. What happens about infringement fines? Are they going to be aggregated generally? It would be really helpful to have a note from you about apportionment of payment of fines.

**Robert Ledsome:** We will provide a note.

**Chair:** I am really sorry about this. We are all going to go, but thank you very much indeed for your time and for coming along this afternoon. Thank you.
1. SUSTAINABLE DEVELOPMENT

1.1 Sustainable Development as defined by the Brundtland Commission and as set out in the UK Sustainable Development Strategy is not a reality in the UK. Few planning decisions can be considered to have delivered sustainable development. Some local authorities are grasping the issue and delivering in areas on the ground, but are hampered by lack of power and political commitment.

1.2 The Government’s own sustainable development indicator set (2010) reveals that community participation has decreased over the last few years, and that emissions are rising from certain sectors, and that there are increasing households in fuel poverty. The Localism Bill could be at the heart of addressing these issues through ensuring meaningful participation processes, equality impacts assessment and by requiring local authorities and plans to deliver on sustainable development.

1.3 The Royal Commission on Environmental Pollution stated in its report *The Urban Environment* (2007) that: “there is little evidence that government at any level is tackling the quality of the urban environment and the quality of life in an integrated way.”

1.4 The previous Government’s response to the Environmental Audit Committee eighth report (Session 2007–08) on local governmentii “shared the Committee’s view that action at a sub-national level is essential in enabling us to meet our ambitious but very necessary commitments to mitigating and adapting to climate change”. The Committee’s report stated that “Local, regional and devolved government will never be successful in overcoming barriers to progress on climate change if they lack the motivation to take action or the barriers they face are too high.” If the commitment to be the “greenest government ever” made in May 2010iii holds, then ensuring that the Localism Bill is focussed on requiring positive outcomes for sustainable development is key.

1.5 The Committee on Climate Change’s second progress report (2010)iv states that planning must deliver the renewable energy development required in order to meet carbon budgets. It also makes the point that transport planning is important for example in “constraining transport emissions growth through design of new developments (eg these might be close to workplaces, facilitating commuting by public transport rather than car)”. The Localism Bill is the right place to ensure that planning and regional co-operation deliver climate change mitigation through policies and development management.

1.6 The Sustainable Development Commission has pointed out in its submission to the CLG inquiry on Localism (2010) that “Some of the biggest challenges facing us are international and intergenerational in nature, for instance climate change and natural resource depletion. These critical issues can be difficult to address at the local level, especially when a community has more immediate priorities such as unemployment, poverty and health problems.” Their evidence stresses the importance of community participation in sustainable development activities through various case studies. In particular the benefits of addressing local issues such as unemployment through creating new green jobs eg in retrofitting housing stock are both global, in helping to mitigate climate change, and local.

1.7 In order to safeguard the future and to build the strong communities and places, much more directions required for local authorities. Directing the general power of competence towards delivering on sustainable development would create change from business as usual on the ground. This could be achieved with an amendment that says that the exercise of the function (the power of competence) must be with the objective of achieving sustainable development defined as meeting our needs without prejudicing the ability of future generations to meet their needs.

1.8 Planning must deliver on sustainable development. From the National Policy Statements to the National Planning Policy Framework, to the duty to co-operate, to Local Development Frameworks and Neighbourhood Plans, a common purpose is required. This is to ensure that the process of plan-making and decision-making are both working within the principles of sustainable development. Currently local plans are required to “contribute to the achievement of” sustainable development and must have regard to national planning policy guidance, of which planning policy statement 1 (PPS1) sets out policy on sustainable development. Development control is not covered by the current legislation.

1.9 Amendments to the Bill should therefore ensure that national policy, the duty to co-operate and local and neighbourhood plan-making and development control are delivering sustainable development.

2. CLIMATE CHANGE

2.1 The urgency of the need to tackle climate change mitigation is such that the planning system cannot afford to ignore the issue. Housing, energy, transport, retail, and business will all need to address adaptation to deal with issues such as increased flood risk and extreme heat. Mitigation of climate change is also a shared responsibility across sectors and across levels of planning. From National Policy Statements and the National
Planning Policy Framework to Local Development Frameworks and Neighbourhood Plans, it is essential that the process and decisions around plan-making deliver on climate change issues.

2.2 The Committee on Climate Change has published its 4th budget report, which recommends that the Government adopts a 2030 50g/kWh CO₂ target for the electricity sector, as part of an overall economy target of a 60% cut on 1990 levels by 2030. The critical implication is that this requires a steep and rapid decarbonisation pathway from now to 2030. Decarbonising must happen at a local, regional and national level of development planning and strategy.

2.3 The climate change provisions in the Planning Act 2008 do not apply to Neighbourhood Plans. The Localism Bill would need to be amended to ensure that Neighbourhood Plans have a specific objective to set out how they will address climate change, both in terms of mitigation and adaptation policies. Neighbourhood Development Orders have even greater potential to lock in high-carbon and inappropriate developments, in direct contrast to the need to address climate change.

2.4 The proposed National Planning Policy Framework is also not covered by an obligation on the face of the bill to set out integrated policies that are sustainable and contribute as a whole to the mitigation of and adaptation to climate change.

2.5 Friends of the Earth recommends that Neighbourhood Development Orders are limited to certain types of development, and that a specific requirement is laid upon orders to reduce carbon emissions in line with the Government’s carbon budgets, and to have a specific goal to address biodiversity and equality impacts.

3. Right to be Heard

3.1 There is growing tension between the stated desire of Ministers’ to enhance public involvement and the detailed impact of the Bill which clearly reduces proper public participation and creates inequality within the land-use planning system.

3.2 In a recent answer to a question on defining Localism, Greg Clark, Minister at CLG answered: “This Government have been clear that they want to see a radical redistribution of power away from central Government to local communities and people.” The Localism Bill fails to redistribute power equally, or to ensure that all people in their communities have a right to be heard in Neighbourhood Planning. Having failed to publish a White Paper on the proposals within the Localism Bill, the Government have not consulted widely on what their proposals might actually mean for people. The importance of process in creating a fair system has been missed by the Bill, which leaves the detail to guidance. With no White Paper it is hard to discover what the process might be, and whether it will deliver a local participatory, engaged and diverse approach.

3.3 The Localism Bill proposes two formats—Neighbourhood Plans and Neighbourhood Development Orders. Neighbourhood Development Orders are onerous and benefit the developer rather than the community. They reduce local public involvement in the planning system, and limit the window of opportunity for influence and engagement to a period before the order is adopted. There is also increased risk of infringing on people’s right to a fair hearing under Article 6 and creating tension and dissension within the community if the process of creating the order is faulty.

3.4 As the examiner is an important part of the process of creating the Neighbourhood Plan, it is important that they are both independent and skilled. The bill should be amended to specifically provide for the Planning Inspectorate to undertake the examinations of Neighbourhood Plans.

3.5 The Neighbourhood Plan and Development Order examination process is defaulted to written representations (Schedule 10, Section 9(1)). Hearings on issues may be held at the discretion of the examiner. This is not a right to be heard as currently exists in the Local Development Framework system where in the inquiry, where any person wishing to make representations to change an aspect must be given an opportunity to appear before and be heard by an examiner. In addition, cross-examination is at the discretion of the examiner. For proper testing of the evidence and proposals, provision should be made for participants who have registered their interest in doing so to be enabled to cross-examine under the guidance of the examiner.

3.6 The Neighbourhood Plan process and the Neighbourhood Development Order are both time-consuming, costly, and technical processes which risk excluding members of the community who may, for a number of social and economic reasons, be unable to engage or to afford to plan. Support for the community is vital to ensure that Neighbourhood Plans set out sustainable development which achieves global as well as local goals.

3.7 Friends of the Earth recommends that amendments are made to the Bill to provide a right to be heard which is not discretionary and to acknowledge existing plans and community documents in all local decision-making by replacing Section 9 (1) in Schedule 10 with a clear right to be heard.

4. Equality

4.1 Local planning must deliver a fair and participative process which addresses inequality and actively and creatively engages people from diverse backgrounds.

4.2 The Localism Bill’s proposals risk increasing environmental injustice, as those who can afford and have the time and skills to plan are able to improve and safeguard their environment, and those unable to pay or
participate may suffer increased high impact developments which cumulatively have negative environmental, social and economic impacts.

4.3 Equality impacts must be tested where for instance new housing and supermarket development replaces existing retail diversity within a market, community services and green infrastructure, adversely affecting access for those on lower incomes to food, jobs and open space. Adverse impacts such as for instance the cumulative impact of developments on air quality are particularly apparent in deprived communities, and the planning process must seek to redress and mitigate against these unfair outcomes.

4.4 Without a White Paper there has been no opportunity to adequately raise equalities concerns. In addition the Government’s own equalities impact assessment seems to imply that ethnic and disability groups have not come forward to discuss their concerns—but it seems that little effort has been made to ensure these groups’ view and expertise have been proactively sought out.

4.5 Where there is no Parish Council, the Bill provides for Neighbourhood Forums to create Neighbourhood Plans. These are not “public bodies” and are therefore not covered by the 2010 Equalities Act, nor by Freedom of Information requirements. This is of deep concern as they not democratically accountable. These forums cannot be said to represent the entire community and there is no clear way of challenging the process if you feel you have been excluded.

4.6 The Bill should be amended to specifically bring all planning bodies under the Equalities Act 2010 and to ensure that equalities impacts are tested at examination stage.

5. Third Party Rights of Appeal

5.1 The Localism Bill does not provide a third party right of appeal. This is a significant injustice in the current planning system, as at present only applicants may appeal a planning decision. Third parties have to seek judicial review which is costly and remote.

5.2 Ministers have spoken about the local and community power granted by the Bill. In fact the Bill creates a system of neighbourhood orders which are very powerful, and within which there is no right to be heard or right of appeal.

5.3 Developers, such as supermarket retailers, who apply for planning permission have a privileged right to appeal against a local council when their application is refused. Individuals and communities who object have no such right. This imbalance reinforces the impression of a planning system which is only interested in the developer, and reinforcing the power of those with property rights.

5.4 If the Government wants to reverse a situation where communities feel railroaded (particularly apparent in the case of some supermarket developments where repeated applications and appeals eventually triumph over community and local economic concerns) a limited third party right of appeal is essential.

5.5 It is clear that the decision-making process can go wrong. It is important that in these few cases that the situation can be remedied such as where the local authority has a clear conflict of interest.

5.6 In January 2002 a group of NGOs including Friends of the Earth, CPRE, RSPB and the Environmental Law Foundation published a major report which analysed the case for third party rights. The report concluded that there was a powerful argument for the introduction of such rights and that this could be achieved without undue administrative cost or delay. The proposals highlight the need to qualify the right of appeal to focus only on those with a legitimate interest in a case and only on those cases which have major environmental impacts or represent a conflict of interest for the local authority.

5.7 Rights of appeal would be limited to between 1–5% of all planning applications. Ordinary householder applications would not be subject to appeal rights. Third party rights have existed in the Republic of Ireland since the 1930s and are successfully administered in Denmark, Sweden, New Zealand and parts of Australia. A clear and convincing argument would need to be made for an appeal to occur and to test a decision where it is clear that the process of decision-making has been faulty or extremely controversial. The Localism Bill should be amended to include a limited third party right of appeal.

10 February 2011

References

1 Measuring Progress: Sustainable Development Indicators 2010, DEFRA

2 Climate change and local, regional and devolved government: Government Response to the Committee’s Eighth Report of Session 2007–08

3 Prime Minister’s speech to DECC on 14 May 2010.
Introduction and Summary

1. We welcome the opportunity to submit evidence to the Environmental Audit Committee on the need to ensure the Government’s reform of the planning system achieves sustainable development. As a leading environmental charity, the Campaign to Protect Rural England (CPRE) has worked to promote and protect the beauty, tranquility and diversity of rural England by encouraging the sustainable use of land and other natural resources since 1926. We believe the planning system is a key tool to enable us to achieve these aims.

2. The proposed planning reforms, including the national planning policy framework, will shape future development and the countryside. Ensuring the planning system is underpinned by the principles of sustainable development will be essential if we are to achieve the efficient and effective use of land, including the regeneration of previously developed sites and protection of the countryside from unnecessary and intrusive development.

3. In making recommendations to the Government on how to ensure the new planning system delivers sustainable development, CPRE suggests that the Committee consider the following key points:
   - We welcome the Government’s intention to get more people involved in planning but the reforms should not be underpinned solely by the need for economic growth. The purpose of the planning system is, and should continue to be, to achieve sustainable development in the public interest.
   - We would support a presumption in favour of sustainable development if it was for development that was in line with the development plan. If this is not the case we are concerned that any new presumption will undermine the current plan-led approach.
   - We believe the Localism Bill should include a brief definition of sustainable development, in line with the current Sustainable Development Strategy. This should then be fleshed out in more detail in the national planning policy framework.
   - While the Localism Bill and the national planning policy framework are central components of the planning reforms, if the system as a whole is to deliver sustainable development other mechanisms such as the New Homes Bonus and local enterprise partnerships will need to be underpinned by the same objective.

Planning and Sustainable Development

4. The Localism Bill is part of a package of reforms to the planning system. The review of Planning Policy Statements and Guidance to develop a national planning policy framework, the creation of local enterprise partnerships and the development of incentives to encourage housing and business growth are also key components. The principles of sustainable development, which require environmental, social and economic issues to be considered in an integrated way and given equal weight, must underpin all of these components.

The role of the planning system

5. CPRE recognises the need to revive the economy but the planning system should not be viewed simply as an economic tool. Planning should be concerned with making decisions about the use of land with a view to long term needs and the wider benefits it brings. If it is skewed toward economic growth there is a serious risk that development, that is approved because of its short term economic benefits, will have negative environmental, economic or social consequences in the longer term.

6. In a speech on 19 January 2011 the Secretary of State for Communities and Local Government said “perhaps one of the biggest blockades to growth over recent decades has been the planning system... The new planning system is predicated on encouraging growth”. While we acknowledge that the existing system is by no means perfect, it plays an important role in mediating often conflicting views to secure necessary development in appropriate locations while ensuring we can all benefit from an attractive and well designed natural and built environment.

7. The new planning system should be predicated on enabling necessary development which is sustainable both in terms of location and design, rather than growth in itself. This overarching objective should be set out clearly in the language the Government uses to talk about the planning system, and in the mechanisms it creates to deliver the planning reforms.
Presumption in favour of sustainable development

8. The Coalition Agreement confirmed that the Government would create a presumption in favour of sustainable development in the planning system. This took forward the proposals set out in the Conservative’s Open Source Planning Green Paper. In the Green Paper we were concerned to see that the presumption was seen as a policy to enable a ‘major upswing in development and construction’. CPRE is pleased, therefore, that such a presumption, one that would simply aim to encourage growth regardless of the environmental consequences, was not included in the Localism Bill.

9. We understand that the presumption in favour of sustainable development will be taken forward as a key part of the national planning policy statement. In order to ensure the presumption does not undermine the plan-led approach we believe it should be constructed as a presumption in favour of sustainable development that is in line with the development plan. The development plan would include local and neighbourhood plans, where these exist. By promoting sustainable development, regardless of the policies of the development plan, this would make community involvement in the local planning system and future neighbourhood plans largely irrelevant.

10. CPRE did not support a further proposal in the Green Paper that if no plan is in place by a set deadline there should be a straightforward presumption in favour of development. Given the legal meaning attached to a presumption, this is likely to lead to considerable pressure for development which is likely to be unsustainable. We would not, therefore, support its inclusion in the national planning policy framework. Such a policy would undermine the plan-led system as well as the need to promote development that is sustainable.

11. Moreover, the development of local plans, and the support they will need to give community groups developing neighbourhood plans, will be resource intensive for local authorities. It is essential that they are given the time and capacity to involve local communities fully in a collaborative process to develop local plans. The focus should be on engaging communities and getting plans right, rather than rushing to get plans in place, regardless of their quality or relevance.

Improvements to the Localism Bill

12. The statutory purpose of planning, as currently set out in section 39 of the Planning and Compulsory Purchase Act 2004 (as amended) is to contribute to the achievement of sustainable development. Our understanding is that the Localism Bill does not alter that provision. Schedule 9 of the Bill amends section 38 of the 2004 Act to make neighbourhood plans part of the development plan. It does not, however, amend section 39 to make the sustainable development duty apply to any person or body exercising a function in relation to the presumption. We believe, therefore, the Localism Bill should be amended to ensure that neighbourhood plans are developed with the objective of contributing to sustainable development.

13. We also note that the duty to cooperate in clause 90 of the Bill is in relation to planning for sustainable development. As stated above, sustainable development is not, however, defined on the face of the Bill. We believe this needs to be addressed. We recognise that the Government intends to define the term in the national planning policy framework. A draft of the framework has not yet been published. But rather than leaving the interpretation of the term to the policy framework we believe part 5 of the Bill should include a definition of sustainable development. This would relate both to section 39 of the 2004 Act and clause 90 of the Localism Bill. We believe a simple definition would give greater weight to the importance of sustainable development in the planning system. A more detailed definition, which expands on the definition in the Bill, could then be set out in the national planning policy framework.

14. We would suggest that the Environmental Audit Committee may be well placed to develop a definition of sustainable development that could be included in the Bill. We would support the inclusion of something along the lines of “managing the use, development, and protection of land and natural resources in a way, or at a rate, which protects the long-term health of the environment, maintains biodiversity and landscape character, and enables people and communities to provide for their social, economic and cultural well being while sustaining the potential of future generations to meet their own needs”.

New Homes Bonus

15. To ensure sustainable development underpins the wider planning system we believe changes also need to be made to the proposed New Homes Bonus. We recognise that the Government sees the introduction of incentives as an important mechanism for encouraging the development of new housing. In order to ensure the Bonus encourages and rewards sustainable development we recommend that the scheme only rewards housing that is delivered in line with the development plan.

16. In preparing neighbourhood and local plans consideration will need to be given to the local evidence base, including housing need, and the national planning policy framework, which will include the need for plans to deliver sustainable development. If the New Homes Bonus is not restricted to rewarding the development of housing that is set out in the development plan it might incentivise cash-strapped local authorities to permit development that undermines the plan-led approach, including policies in neighbourhood plans, as well as sustainable development principles.
Role of local enterprise partnerships

17. On 19 January 2011 the Secretary of State for Communities and Local Government said the Government was ‘putting the decisions on growth in the hands of the people who know and understand their own natural economic area—through local enterprise partnerships’. While we support the need for cross boundary working between local authorities on a number of issues, including environmental matters, we are concerned about the creation of local enterprise partnerships for a number of reasons.

18. In relation to the scope of this inquiry we are concerned that local enterprise partnerships, with an economically focused remit, are likely to undermine the achievement of sustainable development. While their role, and how they undertake it, may well need to vary between areas it is essential that their shared purpose is to deliver sustainable economic growth. While they did not always fulfil their responsibilities in this regard the former Regional Development Agencies were subject to a statutory duty to contribute to sustainable development. A similar, though stronger provision, should apply to local economic partnerships. If this is not the case, these business-led partnerships are likely to develop strategies for economic growth with little or no regard for the environmental or social implications. If these strategies then influence decisions on planning applications or development plan policies CPRE fears the system will be unacceptably skewed towards economic interests alone.

Conclusion

19. We welcome the Government’s intention to get more people involved in planning and the broad aspirations of the package of planning reforms. In taking these forward we urge the Government to be clear that the purpose of the planning system is, and should continue to be, to achieve sustainable development in the wider public interest. The principles of sustainable development should, therefore, underpin the Localism Bill, the national planning policy framework and a number of other mechanisms which are being developed, including the New Homes Bonus and local enterprise partnerships.

10 February 2011

Written evidence submitted by the Department for Communities and Local Government

Introduction

1. The Department’s approach to sustainable development is shaped by an ambition to lead a radical shift in power from Westminster to local people, to enable them to take control of the issues that affect their lives, as set out in our Business Plan published in November 2010. The Department aims to make localism and the Big Society part of everyday life by decentralising power as far as possible; reinvigorating local accountability, democracy and participation; increasing transparency; meeting people’s housing aspirations; and giving communities a stronger role in planning.

2. Delivering these priorities will contribute to sustainable development in several ways:

— Local people are best placed to understand how to pursue sustainable development locally. Empowering local people and communities will enable them to respond confidently to the challenges of sustainable development as well as other issues.

— The planning reforms being introduced will give local people and communities far more ability to shape the places in which they live, in particular through new neighbourhood planning powers and a new designation to protect green areas of particular importance to local people.

— A community right to bid for property of local value which is proposed for sale will provide new opportunities to take over and manage facilities in ways that contribute to the social, economic and environmental health of the locality.

3. The Localism Bill is central to achieving this vision. It contains a series of proposals with the potential to achieve a substantial and lasting shift in power away from central government and towards local people; a shift that should enable and encourage a step-change in action to secure sustainable development.

4. At the strategic level, the Bill provides for a ‘duty to co-operate’ in relation to planning for sustainable development: local planning authorities and other public bodies will be required to work together on the issues that require a degree of cross-boundary coordination, such as new infrastructure, flood mitigation and responding to the needs of the natural environment in a changing climate.

Sustainable Development and the “Presumption in Favour”

5. The Coalition: Our Programme for Government (May 2010) contains a commitment to introducing a presumption in favour of sustainable development in the planning system. This echoes a proposal in the Conservative Party’s paper “Open Source Planning” prior to the election, which presented the presumption as a means of facilitating appropriate new development.
6. The broad form of presumption suggested in Open Source Planning would require legislation, but Ministers took an early decision to introduce the presumption through policy instead. This reflects a number of considerations:

— The existing legal requirement for planning applications and appeals to be determined in accordance with adopted development plans “unless material considerations indicate otherwise” provides a balance between certainty and a necessary degree of flexibility in planning decisions.

— National planning policies are a powerful, and relatively flexible, means of sending signals about the way the system should operate, and provide scope to emphasise the sustainable development considerations that should infuse plans as well as individual planning decisions.

— In particular, the intention to produce a single National Planning Policy Framework creates an opportunity to integrate the presumption with wider messages about the pursuit of sustainable development through planning.

7. The Department’s Business Plan reflects this intention, committing to “introduce as part of the national planning framework a strong presumption in favour of sustainable development”. The National Planning Policy Framework will also be the vehicle through which the environmental, social and economic components of sustainable development will be set out to inform plan-making and planning decisions. Thus, what the National Planning Policy Framework says about the weight to be given to each of these aspects of sustainable development could effectively be the mechanism by which sustainable development is defined for the purposes of the presumption.

8. A policy-based presumption could potentially do a number of things, including:

— Emphasising the positive role that plans should play in promoting sustainable development (and, through those plans, fostering appropriate forms of development).

— Making clear the important role that the sustainable development principles in national policy (the National Planning Policy Framework) should play in considering proposals, where the development plan is out of date/not relevant.

9. Suggestions on the content of the National Planning Policy Framework were invited in December last year, and are required by the end of this month. The intention is then to issue a draft document for consultation this summer, and a final version by the end of April 2012.

10. Policies in the National Planning Policy Framework will supplement and support the existing legislative requirements for securing sustainable development through the planning system, which include:

— The requirement for local authority development plans to be subject to a process of “sustainability appraisal” (incorporating a strategic environmental assessment, as required under EU law).

— The additional requirements for those producing local authority plans to do so with a view to achieving sustainable development, and to include policies that contribute to the mitigation of, and adaptation to, climate change.

— The requirement for an environmental impact assessment for certain types of proposal, particularly in the case of large-scale development.

WIDER MEASURES

11. The measures in the Localism Bill, existing statutory requirements and the suite of policies in the National Planning Policy Framework should deliver an imaginative and proactive planning system: one through which communities take the lead in pursuing sustainable development without “one size fits all” rules that stifle innovative attempts to tackle the challenges that we face.

12. This is of course part of a much wider picture. Steps are being taken across government to promote sustainable development and address climate change, and fulfil the ambition to be “the greenest Government ever”. These include:

— The Natural Environment White Paper this Spring, which will include proposals to give communities more power to protect and manage the natural environment.

— The Energy Bill, designed to tackle barriers to investment in energy efficiency, enhance energy security and enable investment in low carbon energy supplies.

— Work to explore innovative ways to deliver environmental benefits. For instance, the Government has published a discussion paper on how biodiversity credits might be used to offset the impacts of development on biodiversity.

13. The Government is also committed to “mainstreaming” sustainable development, so that it is central to the way in which it makes policy across all departments, and also the way in which it operates its estate and purchases goods and services. Strong and transparent leadership on sustainable development at the national level will complement efforts to empower communities in delivering sustainable development on the ground. The Localism Bill provides the tools and the incentives through which that local empowerment can happen.

11 February 2011
Written evidence submitted by the RSPB

The RSPB is part of the Greenest Planning Ever coalition, a campaign by Wildlife and Countryside Link and partners on the Localism Bill.

We welcome the decision of the Environmental Audit Committee to examine the Localism Bill and sustainable development.

This note provides an overview of our views on sustainable development in the Localism Bill and related amendments that we are supporting. It also summarises our initial thinking on the content of the National Planning Policy Framework and the relationship of this key planning policy document to provisions in the Localism Bill.

Summary

Part 5 of the Localism Bill is a significant landmark in the Coalition Government’s planning reform agenda. The Bill should:

— Not include the “presumption in favour” of sustainable development, so as not to undermine the plan-led system; it should be set out instead in the National Planning Policy Framework (NPPF).

— Ensure that sustainable development, delivered within environmental limits, remains the purpose of planning, including neighbourhood planning. This needs to be set out on the face of the Bill and further elaborated in the NPPF.

— Provide a statutory basis for the NPPF.

— Introduce new and effective arrangements for strategic planning across local authority boundaries, which deliver for the environment.

The Presumption in Favour of Sustainable Development

A “presumption in favour of sustainable development” was proposed in the Conservative’s Open Source Planning Green Paper, and is not included in the Localism Bill. The “presumption in favour” is a policy instrument designed to act as an incentive to development, and some stakeholders are calling for it to be included on the face of the Bill. However, the RSPB does not support its inclusion in the Bill, because this would undermine the plan-led system as set out in section 38(6) of the Planning and Compulsory Purchase Act 2004. Its wording and operation is a matter which should be considered in the proposed National Planning Policy Framework (NPPF) (see below).

From an environmental perspective, the key issues about the “presumption in favour” are:

— The plan-led system allows proper strategic environmental assessment of the impacts of development, as well as giving communities the best opportunity to shape the future of their area.

— Any policy must not create a licence for environmental damage, and must be applied in the context of the need to live within environmental limits.

— Reference to sustainable development in the presumption in favour must not give rise to confusion about the overall purpose of the planning system (see below).

Sustainable Development as the Purpose of Planning

The Localism Bill offers an opportunity to examine how strong and effective the existing sustainable development duty is, as applied to planning. The purpose of planning, as set out in section 39 of the Planning and Compulsory Purchase Act 2004, is to “contribute to the achievement of sustainable development”. According the UK Sustainable Development Strategy, and indeed other national and international conceptions of sustainable development, this means bringing about genuine improvements in environmental and social wellbeing for both present and future generations, including by building a strong, stable and prosperous economy. As it has been put, it means “not cheating on our children”. Across the UK, governments share the principle that we must live within environmental limits locally and globally. Planning is an essential tool for managing the use of our natural resources and for minimising the impacts of development on the environment.

Unlike the “presumption in favour”, this sustainable development purpose is more a goal or objective which expresses what the planning system as a whole is intended to achieve. Rather than a “presumption in favour”, the sustainable development purpose of the planning system as a whole should be included on the face of the Bill. Although it is not sufficient in itself to ensure that planning delivers sustainable development, its legislative basis sends a strong signal to plan-makers that plans should be framed with this goal in mind. Further elaboration on the meaning of sustainable development is currently provided in national planning policy (PPS1), and the NPPF should play a similar role in future.

The Localism Bill thus presents the opportunity to ensure the following changes are put in place:

— The legislative purpose of sustainable development should be applied to all types of development plans, including neighbourhood plans (along with the allied climate change and design duties). A general requirement for the neighbourhood plan to conform to the key principles of the local plan, as proposed, is inadequate.
— the existing sustainable development purpose should be strengthened, as it is currently defined in weak terms as merely “contributing to the achievement” of sustainable development.
— Key principles of sustainable development should be defined on the face of the Bill and further elaborated in the NPPF.
— The legislative purpose should be extended to development management, to ensure in particular that carbon and biodiversity impacts are properly accounted for.

Amendments to the Bill have been tabled to this effect. (New Clause 3 Purpose of Planning, New Clause 4 Sustainable Development and Amendment 132, tabled by Barbara Keeley, Alison Seabeck and Jack Dromey).

National Planning Policy Framework

The Coalition Government has proposed a National Planning Policy Framework (NPPF) for England. This does not form part of the Localism Bill, but is an essential part of the package of planning reform. A strong national vision is essential to guard against the danger that localism becomes merely parochialism.

The Government has committed to introducing a presumption in favour of sustainable development in the NPPF. As noted above, the RSPB believes that this must not undermine the plan-led system. Although we accept the importance of building a strong, stable and prosperous economy, this must not be at the expenses of the environment. The NPPF should clearly set out the Government’s aspirations on a range of environmental issues, particularly the need to mitigate and adapt to climate change and the need to protect and restore biodiversity in order to achieve our international commitments.

Given the potential importance of the NPPF for sustainable development, climate change and the natural environment, the RSPB commissioned Collingwood Environmental Planning (CEP) to investigate national planning frameworks in other countries, review the available literature and interview relevant experts in order to make recommendations to the RSPB.

The resulting report2 helpfully establishes the central role that an NPPF could play in catalysing effective landscape-scale conservation (anticipated to be a priority of the Natural Environment White Paper) and in delivering a resilient ecological network. For example, the NPPF could be the core focus for a strategic framework for landscape-scale conservation from Government, within which local government, civil society organisations and other partners can deliver across England.

The report also highlights the danger of an NPPF that does not have the natural environment at its heart, drawing on experiences from other countries. Where plans have been economically driven without careful consideration of the natural environment, they consistently overlook the value (both monetary and otherwise) of the natural environment. With the Natural Environment White Paper likely to recognise the importance of valuing the natural environment across government’s decision-making, it is clear that the NPPF will play an important role in achieving this.

The report allows us to identify the key elements of a successful NPPF:
— Spatial, but not site specific. This would allow recognition of the key components of England’s ecological network, and prioritisation of landscape-scale areas for restoration.
— Built on a robust reaffirmation of sustainable development. This must recognise environmental limits, steered by the precautionary principle where necessary.
— Developed through debate and participation. The process underpinning the NPPF must be transparent and participative, with provision for regular review.
— Protect and enhance the natural environment. The NPPF must provide adequate policy protection to the natural environment, and strongly encourage local authorities to work with others to identify key components of their local ecological network.
— Informed by Strategic Environmental Assessment. This would facilitate the consideration of different spatial options or scenarios and stakeholder participation in strategic dialogue.
— A statutory basis in the Localism Bill. This would help to clarify its relationship with other plans and policies, particularly with national policy statements (NPS) (although NPS apply primarily to major infrastructure, they may be a material consideration in the town and country planning system, particularly for smaller energy projects).

Amendments to the Bill have been tabled to provide a statutory basis for the NPPF, and to require consultation, Parliamentary scrutiny and regular review. (New Clause 7 National Planning Policy Framework, tabled by Barbara Keeley, Alison Seabeck and Jack Dromey).

Strategic Planning and Sustainable Development

Strategic planning is essential to deliver sustainable development. There is a range of environmental issues where local authorities need to plan strategically and develop joint solutions to issues that are too big in scale

1 Wales, Scotland, Ireland, the Netherlands, Australia (states of Victoria and the Northern Territories) and Taiwan.
or timeframes to be resolved within a single local planning authority area. These include biodiversity protection and conservation, climate change mitigation (eg deployment of renewable energy infrastructure), climate change adaptation (eg coastal flooding), and waste management.

To replace the system of regional planning, the Government proposes a duty to cooperate between local planning authorities and other prescribed bodies (as yet undefined), in clause 90 of the Localism Bill. But the duty is narrower than what was originally expected to be a general duty for local authorities to cooperate with each other. It mostly entails exchanging information and views when preparing plans. We are concerned that, defined as it is, it will not lead to local authorities proactively seeking cooperation to address cross-boundary issues. The duty to cooperate must be strengthened in the Bill.

The Government has proposed a package of incentives to complement the duty to cooperate. But to date, the incentives put forward, such as the New Homes Bonus and localising the Community Infrastructure Levy, are general lacking for key environmental issues.

The Localism Bill provides for statutory guidance on the duty to cooperate to be brought forward at a later date. This needs to outline the (cross-boundary) issues with which the duty to cooperate should deal and the incentives for them to do so. It should also spell out the consequences of non cooperation. To be effective at enabling strategic planning, the duty needs to be supplemented by a range of key mechanisms, most of which are currently lacking or are too weak. These include:

— **Sound evidence base**—To be robust and strategic, plans and strategies must be developed using a sound evidence base, which assesses the state of the environment as well as that of the local economy. While evidence will need to be “owned” and kept up to date by appropriate groups, information previously gathered from the regions should be kept in one accessible place.

— Formal arrangements to enable genuine and meaningful public participation in decisions and promote collaborative planning.

— Robust monitoring arrangements.

**Amendments to the Bill have been tabled** which would address some of these points (amendments 195–205 and New Clause 9 Joint Planning Documents, tabled by David Ward).

*15 February 2011*