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PLANNING FOR JUSTICE: LOW IMPACT LIVING AND THE ONE PLANET DEVELOPMENT POLICY

In the run-up to the 2019 election, the incumbent Conservative government made a number of key pledges to the electorate. One was to solve the long-standing crisis in the funding and delivery of social care. Another was to solve the housing crisis by stepping up construction to three hundred thousand houses a year, an aim which would be made realisable by a radical simplification of the planning system. The first of these pledges proved more difficult to deliver than the newly re-elected government might have liked: although a bill to deal with social care has finally been published, the government's 'solution' to the problem of funding has been widely ridiculed for its perceived unfairness and lack of ambition. The pledge to build more houses and reform the planning system has proved no less challenging: in 2020/21, only around 194,000 homes were built, less than two thirds of the election manifesto pledge of 300,000. More worryingly for the government, the Planning for the Future white paper, which was published in the summer of 2020, met with fierce resistance from traditional Tory voters, culminating in the Chesham and Amersham by-election defeat in June 2020. The delayed Planning Bill, which was to have been put before Parliament last year, has now been scrapped and replaced by the Levelling Up and Regeneration Bill, a much watered-down version of the aforementioned white paper. The key proposed planning reform, a traffic light zonal system which would classify land for either growth, renewal, or protection, has not surprisingly been abandoned.

In my view, the issue of planning policy reform – even if taken in isolation from the wider issue of the housing shortage, with which it is obviously connected – is no less important, and no less challenging to implement, than the issue of the delivery and funding of social care. In this article I will try to explain why I think planning reform is so important and difficult to implement, and how I think the problem could be solved.

THE NEED FOR REFORM

Some will argue, quite reasonably, that there is in fact no real need for a major overhaul of the planning system. After all, the 1947 Town and Country Planning Act was introduced to protect the 'green and pleasant land' of the British countryside, and in this, one might argue, it has been largely successful: absent from the United Kingdom is the endless suburban sprawl that blights so much of the United States, or the notoriously unpleasant houses scattered throughout the countryside of Ireland. Much of the opposition to the reforms proposed in 'Planning for the Future' came from those concerned that a zonal system would

simply give the green light to the large property developers, often against the democratic will of local communities, leading to excessive development on greenfield sites without significantly increasing the supply of affordable housing.

Moreover, one might argue, again quite plausibly, that the chronic shortage of housing in the UK has nothing whatsoever to do with the planning system, and everything to do with the incentives generated by the tax system. After all, it is not as though there is a shortage of sites with planning permission for residential development: large property developers tend to maintain considerable reserves of sites which have been granted permission, and then to develop these sites at a pace that maximises profits, which is significantly slower than the pace at which housing must be built to make up the shortfall. Indeed, it is not even as though there is such a grievous shortage of existing housing, with a very significant number of houses across the country remaining unoccupied or under-occupied. In these circumstances, one might think that what is needed is not a change in the planning system, but rather the replacement of taxes that encourage developers to leave sites undeveloped and residential property owners to leave their properties vacant with a tax that encourages developers to develop and property owners to make their properties available to those who need somewhere to live.

LVT WOULD HELP - BUT NOT SOLVE THE PROBLEM

The replacement of existing UK property taxes with a land value tax would certainly steer us in the right direction, and would probably be a prerequisite for a properly functioning planning system. Not only would it ease the pressure on rural areas by encouraging the utilisation of brownfield sites and vacant buildings, it would also reduce the incentives for speculative construction in rural areas, since a decision to grant planning permission for residential development would no longer in itself yield a significant financial return to landowners.

However, in my view the implementation of LVT would not make planning policy reform unnecessary. This is because with or without LVT, it must still be decided whether, to what extent, and on what basis those who desire to live in the countryside are to be permitted to do so. Most of us can probably agree that it would be a mistake simply to repeal the 1947 Act without replacing it with anything better, even if LVT were to replace existing property taxes. With no regulation whatsoever, it seems overly optimistic

to suppose that LVT in itself would restrain developers enough to protect the countryside. And given the probable continued absence of LVT, the retention of proper regulation of residential (and commercial) development is all the more important.

Under the current arrangements, however, far too many of those who have a legitimate reason for living in the countryside, or in rural towns and villages, are prevented from doing so. One reason for this is that the proactive, strategic type of planning the 1947 Act was designed to support has been gradually eroded since the 1980s, a process that has been accelerated by the austerity policies implemented since 2010, which resulted in drastic cuts to local authority funding for planning and development. But even if the central and local government departments responsible for implementing the existing regulations were not chronically underfunded and under-resourced, the legislation would still be too inflexible and too restrictive. A more flexible system would allow those who have a legitimate reason for living in the countryside to do so, without at the same time leading to excessive development and undermining the interests of existing rural communities.

I will say more about how I think the existing planning system could be made more flexible in the final section of the article. Before I do that, I want to say a bit more about what it means to have a 'legitimate reason' for living in the countryside, and why it is so important that as many as possible of those who have such a reason should be permitted to do so.

CONNECTING WITH NATURE AND LIVING OFF THE LAND

What it means to have a 'legitimate reason' for living in the countryside depends on what we mean by 'living in the countryside'. Living on the edge of a small town or village is one thing; living in an isolated house in the middle of a national park is entirely another thing. To live on the edge of a small town or in a village is to have the opportunity to 'escape' regularly and frequently to the peace, calm, and natural beauty of the countryside, whether on foot or by bicycle, or even simply by sitting or working in one's back garden. Those who live in large cities can, of course, make use of parks and gardens to connect with nature, and can travel to the countryside from time to time in order to escape from the constant noise of the city. But this is not the same as living in close proximity to the open countryside and being able to step outside into the peace and quiet of nature on a daily basis. In an era of high and rising mental ill health and chronically underfunded social services, the importance of the opportunity to live in a rural setting and connect with nature in this way can hardly be over-emphasised and should be restricted no more than is absolutely necessary.

However, the legitimate interest of those who desire to live in a rural setting must of course be balanced against a number of other considerations, such as the legitimate interest of those who already live in rural areas to have their say in the process of deciding whether and to what extent development is to be permitted. The traffic light zonal system proposed in the government's 'Planning for the Future' white paper has been criticised not only on the basis that it would generate urban sprawl and violate the hallowed green belt, but also on the basis that it would be anti-democratic, undermining local democracy and depriving communities of their right to approve or reject planning applications. A reformed planning system must strike an appropriate balance between the democratic right of the

members of local communities to approve or reject proposed developments that would have a significant impact on their lives, and the equally important right to live in rural areas. If the members of local communities have a tendency to reject proposed developments, such that a significant proportion of those who wish to live in a rural area are unable to do so, then opportunities to live in the open countryside, where existing communities are less directly affected, should in my view be made available. I will say more about how this might be done in the next section.

Another consideration against which the interest of those who desire to live in a rural setting must be balanced is the interest of the inhabitants of urban areas who wish from time to time to enjoy the tranquillity and beauty of a countryside that is unblemished by (excessive) human habitation. The continued existence of such unspoilt rural areas was one of the main reasons for the introduction of the 1947 legislation, and there can be no doubt that this remains a central concern for a very significant proportion of the population. It seems clear, however, that this legitimate interest in the continued existence of a relatively unspoilt green and pleasant landscape does not justify the outright prohibition of development in the open countryside. What the existence of these competing interests requires instead is a procedure or set of rules and practices for determining when development in the open countryside should be permitted and when it should not be. This, again, is the subject of the next section.

There is one additional consideration which is of great importance and which further complicates what is already a complicated set of issues and questions – namely, the impact of development on the natural environment, both in terms of local ecosystems and in terms of larger scale issues such as global climate change. It is becoming fashionable to think of these issues from the perspective of a 'humans versus the environment' framing, with human society regarded as separable from the natural world within which it currently exists. From this point of view, environmental crises of various kinds can be solved by accelerating the separation of human life from nature, erecting a barrier between the two spheres, and in this way protecting the latter from the former.

Those who see things from this perspective tend to regard farming and food production as purely economic processes that should be scaled up and industrialised as far as possible. The 'efficiency' of such processes is then measured in terms of the quantity of food produced per worker involved in the production process, with vast areas of land and vast quantities of machinery and chemical fertilisers and pesticides consumed so that inputs of human labour can be minimised. The current tax system, which doubles the cost of employing labour while treating expenditure on capital goods like machinery and chemicals as expenses that reduce tax burdens, serves to reinforce and perpetuate this model of industrialised agribusiness. The same can be said of the system of agricultural subsidies, which are paid out to landowners in proportion to the size of their land holdings. A future in which humans are confined to urban areas, with the 'countryside' given over almost entirely to agribusiness or areas of natural wilderness, would appear to be merely the final destination in the direction of which western societies have been heading since the industrial revolution.

This (to my mind depressing) vision of the future of human social development can be contrasted with an altogether different



view, which seeks to identify ways in which humans can exist harmoniously with the rest of the natural world, not by separating themselves off from it, but rather by learning how to work in and with nature in a sustainable way. Those who see things from this perspective are more likely to conceive of farming and food production as social as well as economic processes that can only be truly efficient and sustainable when they take place in conjunction with other social and economic processes, such as waste disposal, energy production, construction, the provision of hospitality services, and so on. Efficiency is then measured not only in terms of the quantity of food produced per worker (although this is of course a relevant consideration) but also in terms of the quantity (and quality) of food produced in relation to all of the other inputs to the production process, including the area of land that is utilised and the carbon emissions that result from the use of machinery, the disposal of waste products, and the production and transportation of animal feed, chemical fertilisers and pesticides, and so on.

Some of those who see things from this more holistic point of view are engaged – as far as current regulations allow – in the task of trying to develop more efficient and sustainable farming and food production practices, experimenting for example with permaculture, no-till, silvopasture, and a wide range of other agricultural techniques and practices. Many others of this persuasion are unable to engage in these kinds of activities because the opportunity to do so is restricted by the current legislation. While we cannot know in advance which experiments will yield useful results, what we do know is that the more limited the opportunities for experimentation are, and the less diversified agriculture continues to be, the less we are likely to learn about this vital sphere of human activity.

Although my own sympathies lie with the second of these approaches to the problem of environmental sustainability, it seems likely that it will be necessary to incorporate aspects from both approaches if we are to solve the problem of the environment and our relationship with it. The idea of maintaining significant areas of natural wilderness in which human interference is minimised is not in itself a bad one. And the intensive use of machinery and human labour to produce large quantities of cereals from extensive areas of land will surely continue to play a crucial role in meeting the nutritional requirements of an expanding global population. At the same time, the greater the variety of projects and the more opportunities there are for people to experiment, the more we will learn about what we are currently doing badly and what we can do to significantly enhance the sustainability of the agricultural sector.

This means that a just and effective planning system must incorporate elements from both approaches. One way in which the first point of view can be institutionalised in the planning system, for example, is through the establishment and continued protection of national parks, areas of outstanding natural beauty, areas of special scientific interest, and so on, and the strict regulation of any human activity that takes place within such areas (or even, if necessary, the complete prohibition of any human habitation within some of these areas).

However, it is far too extreme, in my view, to propose that we herd everyone into towns and cities, with the countryside remaining as a protected de-peopled natural wilderness alongside a small number of vast islands of industrialised agribusiness; or that we

create a countryside museum, with currently existing villages and farms preserved as relics, old works of art for the enjoyment of those lucky enough to be able to afford the time and money to extricate themselves temporarily from the urban areas in which they spend the bulk of their lives. A more balanced approach would surely be to identify, alongside the aforementioned national parks and areas of outstanding natural beauty and special scientific interest, rural areas outside the boundaries of existing rural communities within which people can be permitted to live and work, should opportunities to live and work in existing rural communities be too heavily restricted by the democratic decisions of the current members of these communities. It would, in other words, be better to expand rather than to further restrict the freedom to carry out the 'experiments in living' on which the creation of a truly sustainable agricultural sector depends.

A MORE FLEXIBLE APPROACH IS REQUIRED

Although the existing planning system is clearly far from perfect, and is in some ways severely dysfunctional, it is not entirely without any redeeming features. Some of the more obscure provisions of the current system could be expanded and applied systematically across the country in order to make the system flexible enough to solve the problems identified in the preceding sections. One such provision is the Single Plot Exception Site policy, which was introduced by Shropshire Council in 2009 to help facilitate the delivery of affordable self-built homes in rural areas across the county. The policy permits individual modestly-sized new privately built homes on sites that would not normally secure planning permission for open market housing, provided that those who will live in the home are in housing need, have a strong local connection and a need to live locally. A Section 106 agreement restricts the value of the property to 60 per cent of the prevailing market value, and the home is limited to 100 square metres gross internal floor area.

Another important provision of the existing planning system is the Rural Exception Sites policy, which exempts areas of greenbelt land from normal planning policy. Rural Exception Sites are small sites used for affordable housing in perpetuity where sites would not normally be used for housing. Permission may be granted for limited development in exceptional circumstances where a clear need for housing has been proven. As with Single Plot Exemption Sites, the properties built on Rural Plot Exemption Sites must be affordable, and only available to those with a strong connection to the local area. The Rural Exception Sites policy could be extended to Park (mobile) Homes, with the proviso that they should be open to people of all ages. Currently, nearly all Park Homes have a policy of refusing young people under the age of 50, an absurd state of affairs given the obvious role that mobile homes could play in meeting the accommodation needs of the many young people in rural areas who are currently living unlawfully in mobile homes, caravans, sheds, barns, cabins, holiday chalets, yurts, benders, shipping containers, and many other makeshift shelters.

The existing legislation might be modified further by broadening the definition of "Essential Need" as a criterion for establishing dwellings on the same land as rural businesses. Rather than being required to show that on-site accommodation is "essential" for a financially sound enterprise, applicants could instead be required to show that on site accommodation would make the enterprise more efficient and/or more environmentally sustainable.

This would allow agricultural workers to avoid the absurdity of having to commute from dormitory towns to work on a supposedly sustainable agricultural business.

Section 106 obligations are another important aspect of the existing planning system that could also be used to add flexibility to the system. Section 106 agreements are used not only to extract contributions from developers, but also to regulate developments (for example, by obligating developers to conform to a management plan), to ensure that the development is tied to a specific enterprise or area of land, or to secure affordability (as in the case of Single Plot Exception Sites). The government is proposing to replace Section 106 obligations with a consolidated Infrastructure Levy, which would be charged as a fixed proportion of development value above a set threshold. In some ways, a charge set at a fixed proportion of development value would be an improvement on the existing system, which lacks transparency and fairness. But the other important functions of Section 106 obligations highlighted above cannot be replaced by a levy. A better approach might be to retain Section 106 obligations and introduce the infrastructure levy in addition, or else replace the Section 106 obligations with a new set of planning conditions.

The systematic expansion of single plot and rural exception sites across the country could provide the flexibility that is so urgently required. Through the imaginative use of Section 106 obligations (or some other type of planning condition), the system would avoid further encouraging the construction of the ghastly identikit estates that have already been blighting both urban and rural areas for many years, as well as the kind of over-development that has destroyed parts of the countryside of Ireland. A combination of stringent planning conditions and a broader definition of 'essential need' would create more opportunities for agricultural workers to live and work in rural areas without giving the green light to greedy developers.

A planning system reformed along these lines might bear some resemblance to the 'One Planet Development Policy' (OPDP) introduced in Wales in 2011, providing the opportunity for those wishing to live within the planetary limits of 1.7gha per person to live on the land they farmed. The introduction of an English OPDP, also based on the Ecological Footprint concept, would provide opportunities and incentives for individuals and communities to dramatically reduce their environmental impact. The requirement to meet stringent criteria relating to livelihood, resource use, transport, construction materials, and so on, would ensure that only genuine land workers gain permission, while making such opportunities more affordable and accessible to those who are attracted to this way of life.

In this way, the planning system could be brought into line with the economic philosophy developed by Henry George in the late 19th century. At the core of George's philosophy was his insistence that all humans have a natural and inalienable right to the use of land and all that nature impartially offers (PP, 300), a right which can justifiably be limited only by the equal rights of others. It is clear that the effective protection of this fundamental right requires not only a just system of property and taxation, but also a just set of practices and procedures for determining whether and on what condition people should be permitted to live in areas of the country that society has decided to protect from over-development. ■