

Planning and Decision Making



Association of Democratic Services Officers



Planning Advisory Service

“The Planning Advisory Service (PAS) is part of the Local Government Association. The purpose of PAS is to **support local planning authorities to provide effective and efficient planning services, to drive improvement in those services and to respond to and deliver changes in the planning system**”

(Grant offer letter for 2013-14)



Association of Democratic Services Officers



Overview of planning decision making

- What is planning for?
- The decision making context
 - Policy
 - Material considerations
- Performance and implications for committees



Planning creates headlines

Heavy-handed council workers order couple to apply for planning permission... for their daughter's Wendy house

By Daily Mail Reporter

Planning reforms: developers 'will wreck countryside'

The leaders of the two biggest countryside campaigns are warning that planning reforms coming into force will “wreck the countryside” and leave large parts of England at their most vulnerable to builders for 70 years.

Councillor sorry for planning error

Written by CHRIS HAVERGAL

A top councillor has apologised for breaking planning rules after a bike shed was installed without permission outside her home.

No planning application was submitted before the 12ft-wide wooden shed was built outside the Bulstrode Gardens home of Cllr Lucy Nethsingha, who represents Newnham on Cambridgeshire County Council



Planners must be barmy



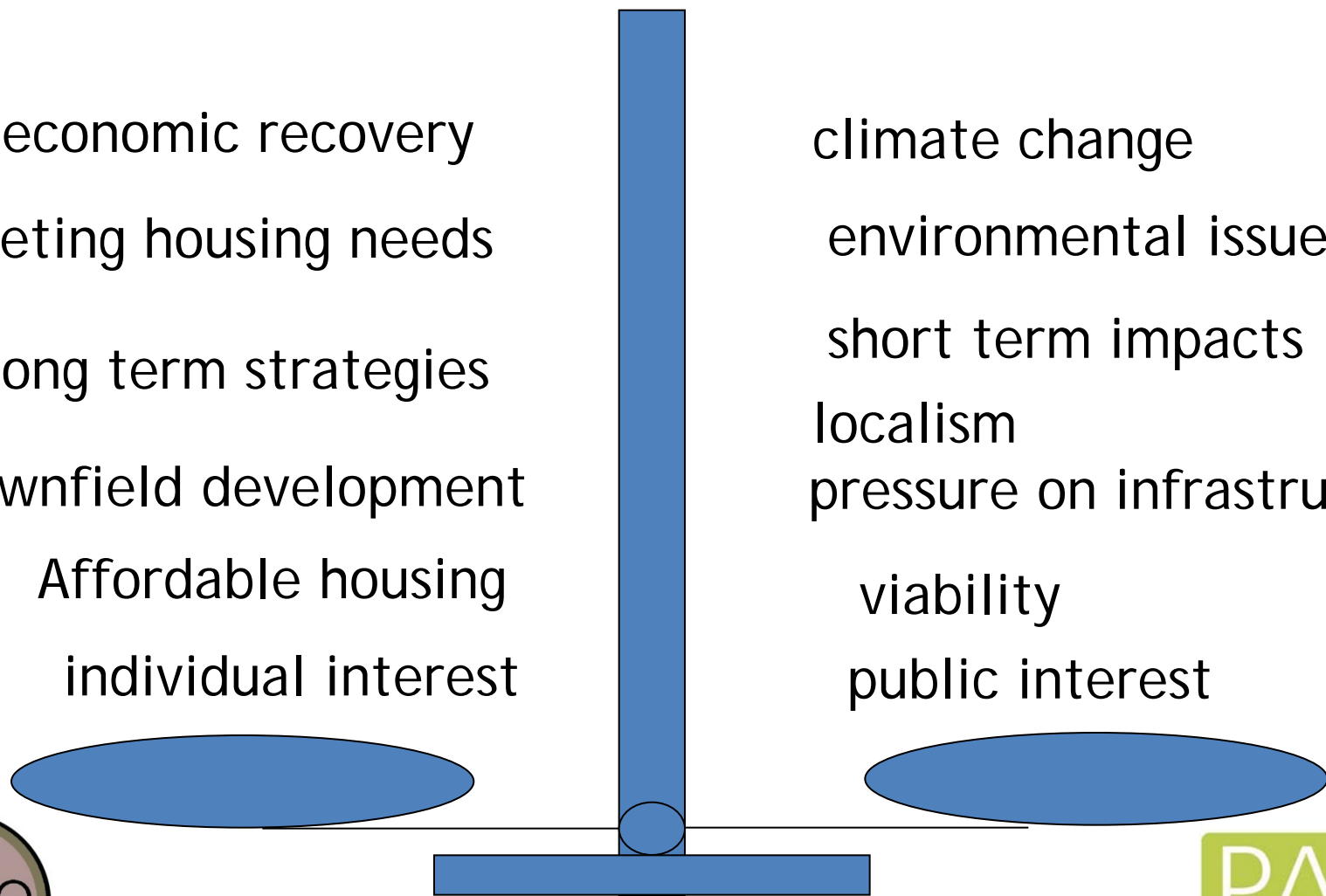
Association of Democratic Services Officers



The decision maker's balancing act

economic recovery
meeting housing needs
long term strategies
brownfield development
Affordable housing
individual interest

climate change
environmental issues
short term impacts
localism
pressure on infrastructure
viability
public interest



Association of Democratic Services Officers



Planning...

- sets out a long term vision for places
- provides a decision making framework to manage competing uses for space;
- **balances** economic, social and environmental needs.
- provides **legitimacy** through consultation and testing of evidence;
- **delivers** change on the ground



The challenge for councils: more



Association of Democratic Services Officers



The challenge for councils: less

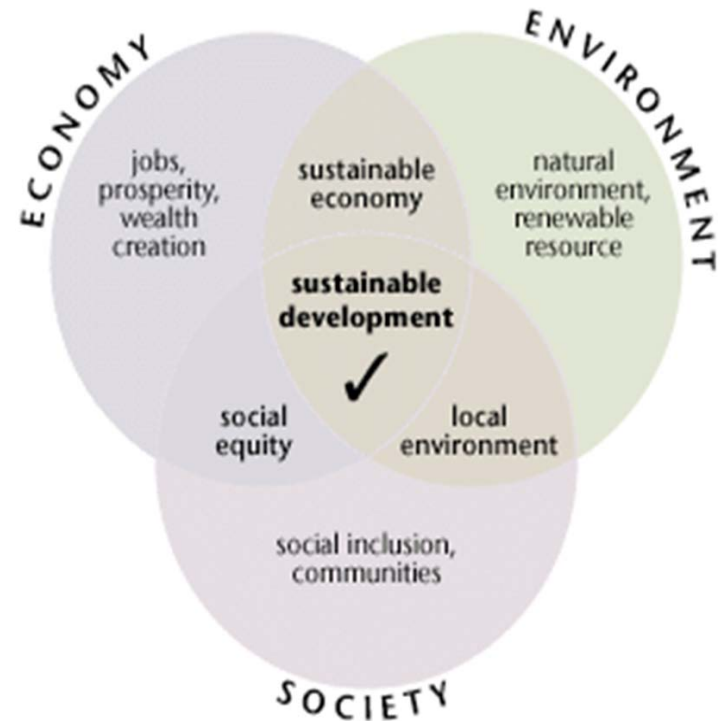


Association of Democratic Services Officers



Planning in the UK is policy-led

- national policy
 - National Planning Policy Framework (NPPF)
 - G&T policy
 - National Policy Statements
 - National Planning Policy Guidance (NPPG)
- local policy
 - development plan
- neighbourhood policies
 - Neighbourhood plans



NPPF and decision making

- Local planning authorities should:
 - **approve development proposals** that accord with statutory plans without delay; and
 - **grant permission** where the plan is absent, silent, indeterminate or where relevant policies are out of date.....
 - *unless....adverse impacts of allowing development would **significantly and demonstrably** outweigh the benefits, when assessed against the policies in the Framework taken as a whole*



The job of the Committee



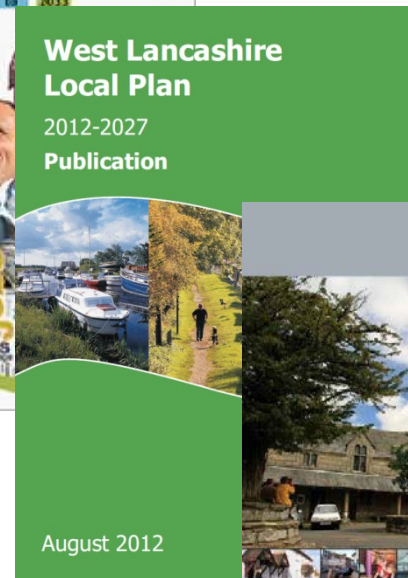
Association of Democratic Services Officers



Start with the plan

- “.....have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations”.

Town and Country Planning Act 1990, section 70



What is the development plan?

- [Local Plans](#): development plan documents adopted by local planning authorities, including any ‘saved’ policies from plans that are otherwise no longer current, and those development plan documents that deal specifically with minerals and waste.
- [Neighbourhood plans](#): where these have been supported by the local community at referendum and subsequently made by the local planning authority.
- In London only, the [London Plan](#): the spatial development strategy prepared by the Mayor of London.
- Any ‘saved policies’ from the former Regional Strategies, until such time as these are replaced by Local Plan policies.



Policy

- the first consideration must be the Development Plan– as it is **at the time of the decision**
- **emerging** plans: no legal force until adopted, but can be given more weight the more advanced they are
- if the Development Plan can be shown to be **out of date** (or, indeed, “silent” on a particular point), NPPF is main policy framework



Think about other things

- *.....determination must be made in accordance with the plan, unless material considerations indicate otherwise”.*

Section 38, Planning & Compulsory Purchase Act 2004



Association of Democratic Services Officers



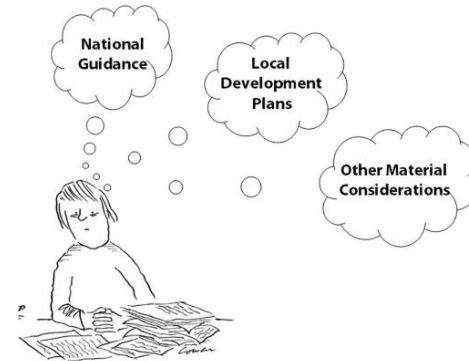
Material Considerations

- what they are and are not - decided by statements of national policy or by decisions of the courts
- the **weight** that should be attached to each consideration in any particular case is for the decision maker



The main types of material consideration

- National and local policy
- Relevant views of consultees
- Factors on the ground



www.planningaidforlondon.org.uk



Association of Democratic Services Officers



Some factors “on the ground”

material

not material

- design and visual impact
- privacy/daylight/sunlight
- noise, smell, pollution
- access/traffic
- physical infrastructure (eg water)
- health and safety
- ecology, landscape, trees
- crime (and fear of)
- economic impact
- planning history/related decisions
- PD fall-back position
- cumulative impact
- viability

- the applicant
- land ownership
- private rights (e.g. access)
- restrictive covenants
- property value
- competition
- loss of view
- “moral” issues
- “better” site or use*
- change from previous scheme
- Building Regs/other regs

* N.B “need” is material in some circumstances



Materiality: some recent refinements

- “local finance considerations”
- viability of the development
- Assets of Community Value
- healthy eating policies*
- fear of crime*

* *needed the intervention of the Courts*



Deregulation: getting applications out of the system

- Extension of Permitted Development Rights (pp not required)
 - Residential extensions
 - Offices to residential
 - the conversion of agricultural buildings to residential use ('barn conversions')
 - Shops, banks etc to residential



The performance ‘sticks’

- Planning guarantee: fees to be returned if no decision after 26 weeks (unless extension agreed)
- Designation: major applications can be dealt with by PINS where LPA shows “consistently poor performance in speed or quality of decisions”
- Or where a high proportion of decisions on majors are allowed on appeal

This all has implications for your timetable and deferrals

