



ARUP

Research on National Development Management Policies

For Royal Town Planning Institute

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Project Team

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Jess Jones is a Graduate Planner in Arup's Cities, Planning and Design team, and a Licentiate member of the RTPI. Over the past year and a half at Arup, Jess has developed a keen interest in development management, and has worked on a range of client-facing projects to support this, including Liverpool Waters. Jess has a passion for research, working as a research assistant during her time at university, and more recently acting as a researcher and co-author on Arup's new global research publication, 'Designing Cities that Work for Women'.

Ian Ford is an Associate Town Planner based in Arup's Liverpool office, advising public and private sector clients on major planning consents for some of the city's main regeneration sites. One of his key interests lies in waterfront regeneration and how assets involving green and blue infrastructure can encourage unique, sustainable design. Ian has worked on a range of projects including Peel's ambitious 60-hectare Liverpool Waters scheme, and has advised on a mix of developments including residential, energy, key infrastructure links, a new cruise liner and the Isle of Man ferry terminal. Ian is passionate about discovering what makes great places successful and how these elements can be transferred to help other areas thrive for the benefit of their communities.

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1.0 Introduction

The *Levelling Up and Regeneration Bill* (LURB) currently before the UK Parliament proposes the introduction of ‘National Development Management Policies’ (NDMPs) in the English planning system. These are to be given full statutory weighting in decisions on planning applications. The government hopes they will *“make it easier to produce plans and foster a genuinely plan-led system, leading to clearer and more certain decision making”*. Echoing language applied to planning by successive governments since the 1970s, the government has argued that NDMPs will result in “swifter”, “slimmer” and more “locally relevant” plans and cut out unnecessary duplication of policy across different planning scales. They are also proposed as a way of providing “policy safeguards” with statutory weight on nationally important matters such as flood risk, policy on climate change, Green Belt, including where local plans are “significantly out-of-date”.

In Summer 2022, informed by this latest proposed change to the structure and status of the legislative and policy framework for planning in England, the RTPi launched a call for research to explore how national development management policies, or equivalent policies, work in other places. The call specification stated that *“We are particularly interested in comparisons to Scotland, Wales and the Republic of Ireland and how local authorities engage with these policies”*.

This report presents the findings of work undertaken by the University of Liverpool and Arup in response to this call. It reviews the status and scope of national development management policies (NDMPs) in the planning jurisdictions identified in the RTPi’s call for research into NDMPs – Scotland, Wales, and the Republic of Ireland – and the additional planning jurisdictions of the Netherlands and Germany.

This coverage was designed to allow insights into how national level policies affecting development management operate in planning systems belonging to different planning ‘families’ (CEC, 1997; Newman and Thornley, 1996). The literature on planning systems has historically distinguished two main types of planning systems:

- Rules-based, ‘conformative’ or regulatory based planning systems, involving binding land use plans and hence limited discretion; and
- Discretionary, ‘performative’, or permission/consent-based planning systems, where the plan is indicative and planners and/or planning committees have greater discretion.

The RTPi (2020) summarised these approaches (using different language) in a [short briefing note](#).

One of the main differences between these different approaches to planning systems is when exactly development rights are granted (Figure 1 overleaf). The conformative model represents the classic zoning system in which a land use plan is approved and confers development rights on the landowner. Approval of the project is a formality and if the proposal is in line with the plan, cannot be refused. In the performative model, such as that in England, on the other hand, an indicative local plan is an important policy aiding decision-making, but it doesn’t grant any rights on landowners per se. Each planning application is assessed based on its own merits against local and national (and at times regional) plans and policy guidance, and in light of planning related issues deemed to be ‘material’ as established through legislation or the courts. Hybrid planning systems combine elements of both approaches

identifying certain uses and developments ‘as of right’ in plans, alongside a schedule of other uses and developments that may be granted consent on a more discretionary basis. Recently some ‘conformative’ planning systems have started to mainly draft detailed land use plans ‘on demand’ or when needed to facilitate the plans of landowners and developers. Some have termed this a ‘neo-performative’ model which uses zoning as a ‘final balance’ and displaces the plan-making and allocation of the development rights stage to later in the overall planning process (Berisha et al., 2021: 184).

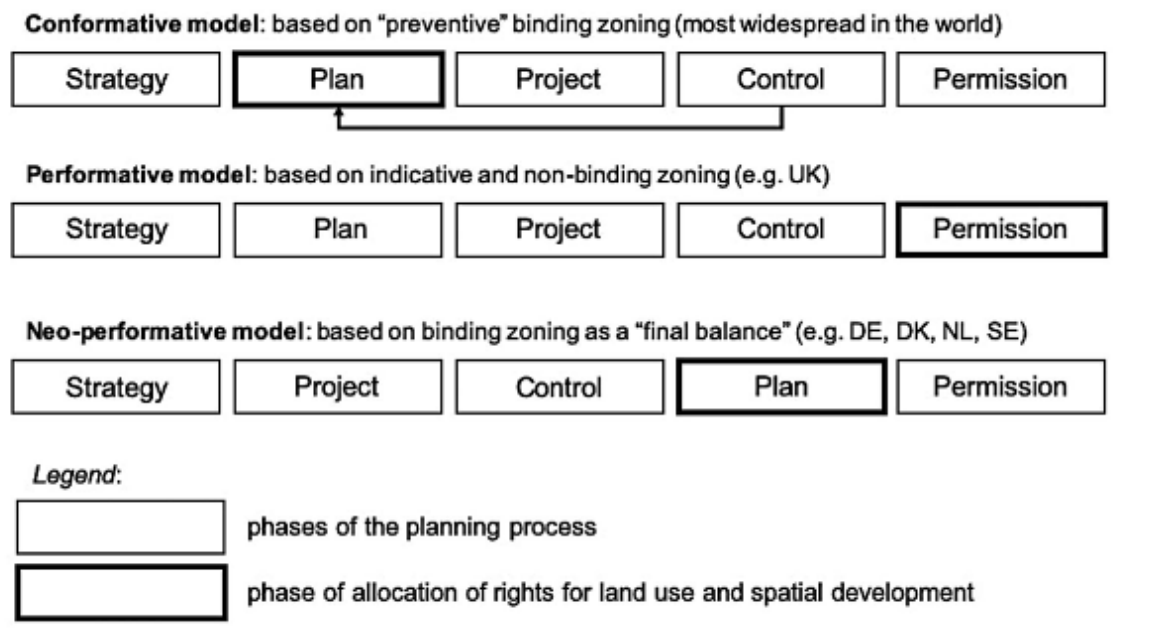


Figure 1 – Conformative, performative and neo-performative planning models.

Source: Berisha et al., 2021: 184 based on Knieling et al., 2016

The present project has sought to take into account some the issues and variants of planning systems discussed above by adding consideration of two regulatory planning jurisdictions which have been identified as moving towards the ‘neo-performative’ model – Germany and the Netherlands – to those identified in the original RTPi NDMP Project Specification – Wales, Scotland and the Republic of Ireland. Although the debates about moving to a more regulatory (zoning) form of the planning system in England have subsided somewhat since the publication of the *Planning White Paper* in 2020 (Dembski and O’Brien, 2020), there was still felt to be value in examining how national level policies operate in different forms of planning systems particularly those situated and arguably moving along the ‘discretionary – regulatory’ and ‘central – local’ continuums (Berisha et al., 2021; Sykes et al., 2022). In recognition of the latter dynamic, another theme that the report explores is the relations between national and local authorities and their respective policies and plans.

Informed by the project call and the issues outlined above this work addresses the following broad research questions:

1. What kinds of national development management policies (NDMPs) exist in the selected study jurisdictions?
2. How do these compare to the English national policies that could be defined as a ‘national development management policy’ (e.g. thematic focus; scope; status in decision-making)?

3. To what degree do the national policies address issues which are already dealt with in local plans?
4. How are national policies implemented in practice and how do local authorities engage with these policies?
5. What lessons can be drawn from the practice and experience with national policies in other jurisdictions which might inform the direction and scope of the NDMPs proposed for England?

The following sections present the findings from the review of other planning jurisdictions considered – Wales, Scotland, Ireland, Germany and the Netherlands. The findings come from a desk-based review of planning policy in each jurisdiction, 11 interviews with professional planners and planning academics in England, Wales, Scotland, Northern Ireland and Ireland¹, and a stakeholder workshop with 13 attendees held in Liverpool in February 2023. A final section presents the overall findings and recommendations of the work and discusses potential implications for the introduction of NDMPs into the English planning system.

¹ 4 Planning Academics one each from Wales, Scotland, Northern Ireland, and Ireland; 1 RTPI representative (Scotland); 2 practising local government planners (England); 4 Arup representatives (2 from Wales; 1 from Scotland; 1 from Northern Ireland).

2.0 Scotland

The [Planning \(Scotland\) Act 2019](#) was passed by the Scottish Parliament in June 2019. It sets out a statutory purpose for planning which is defined as contributing to sustainable development or achieving Scotland's statutory national outcomes.

Section 3CA of the 2019 Act sets out the National Planning Framework: procedure which notes that *(1) The Scottish Ministers may not adopt a revised National Planning Framework until a draft of it has been approved by resolution of the Parliament.* The principle of Parliamentary approval for the NPF is an immediate contrast with how national planning policy is adopted in England, both as regards the current structure and the proposed NDMPs. The current [National Planning Framework](#) is NPF4 *A Plan for Scotland in 2050* which came into force on 13 February 2023 following parliamentary approval in January 2023. This fourth iteration of the NPF for the first time now takes on an enhanced status as part of the statutory development plan, which means the policies have a stronger role in day-to-day planning decision making. It now incorporates (updated) national Scottish Planning Policy (SPP). As a result, this will require a new look at how national policies are reflected in Local Development Plans. Hitherto LDPs would carry the full responsibility for planning policy: now this is an open question.

An important aspect of the NPF4 process is public consultation. This started with a call for ideas between January and April 2020, which invited stakeholders to consider Scotland in 2045 and reflect on planning policy changes and national developments needed to support it. This included an invitation to stakeholders to produce think pieces to stimulate discussion about priorities for NPF4. Also, as part of this process, the RTPI Scotland Chapters and Young Planners hosted a series of workshops and roundtables, and RTPI Scotland hosted a series of international events to learn from the experiences of other countries. The Scottish Government also hosted a series of roadshow events across Scotland, including community and school events. This was followed by the government's release of a position statement in November 2020 and a period of consultation. A series of events were also held at this time about the position statement, including further RTPI roundtable events.

A further period of public consultation was carried out between November 2021 and March 2022 following the drafting of NPF4. The government produced an [initial](#) and [updated](#) programmes of engagement, which sets out further information about the opportunities that individuals, groups and organisations had to engage with NPF4's development.

The Planning (Scotland) Act 2019 also introduces a new duty requiring the preparation of Regional Spatial Strategies (RSSs). Unlike the NPF the proposed RSSs are not part of the statutory development plan, but it is envisaged they will have an important role in principle to play in informing future versions of the NPF and Local Development Plans (LDPs). The current structure of plans in Scotland is illustrated in Figure 2.

National Planning Framework (NPF)	<p>The National Planning Framework sets out the Scottish Ministers' policies and proposals for the development and use of land.</p> <p>The NPF must have regard to any adopted regional spatial strategy.</p> <p>NPF4 is part of the statutory development plan.</p>
Regional spatial strategies (RSS)	<p>The Planning (Scotland) Act 2019 introduced a new duty requiring the preparation of regional spatial strategies.</p> <p>A planning authority, or authorities acting jointly will prepare these long-term spatial strategies for the strategic development of an area.</p> <p>RSS are not part of the statutory development plan, but have an important role to play in informing future versions of the NPF and LDPs.</p>
Local development plans (LDPs)	<p>Planning authorities must prepare one or more LDPs for their area.</p> <p>The LDP sets out a spatial strategy for the development of that area. It must take into account the National Planning Framework and any registered local place plan in the area it covers. It must have regard to the authority's adopted regional spatial strategy. The LDP must also have regard to any local outcomes improvement plan for the area it covers.</p> <p>LDPs are part of the statutory development plan.</p>
Local place plans (LPPs)	<p>Local place plans are community-led plans setting out proposals for the development and use of land. They must have regard to the NPF, any LDP which covers the same area, and also any locality plan which covers the same area.</p> <p>LPPs are not part of the statutory development plan, but have an important role to play in informing LDPs.</p>

Figure 2 – Scotland's Current Hierarchy of Plans. **Source:** Scottish Government, 2023, p.96.

The NPF articulates six spatial principles which will influence plans and decisions:

- Just transition
- Conserving and recycling assets
- Local living
- Compact urban growth
- Rebalanced development
- Rural revitalisation.

It also contains 33 policies with statutory status (replacing Scottish Planning Policy). So the statutory development plan for any given area of Scotland now consists of the National Planning Framework and the relevant LDP(s) (Fig. 2). Guidance on LDPs in the new planning system has now been published. One interviewee (RTPI Scotland Representative, 03.02.23) suggested that there is an encouragement to local planning authorities to refrain from extensive written policy with more focus on site allocations and briefs. This does not mean that written policy cannot be produced, but it will need to be strongly evidenced. The enhanced status of national policy can perhaps be seen as a centralisation, though whether this was fully recognised by MSPs in the Parliamentary approval process is perhaps less clear. The NPF also contains new policies and alongside this there is a sense that there is a desire to see less repetition of planning policy across scales and to streamline the LDP preparation process. The

changes were seen as reflecting the concern in planning to balance certainty and the scope for flexibility – e.g. it was suggested that applicants may find more certainty in the new system. An important issue raised by one interviewee was the “usability” of policy in development management decision-making (RTPI Scotland Representative, 03.02.23). It was noted how at LPA level there is scope for exchanges between those working on plan preparation and those working in development management, and that lessons can be learned to inform future iterations of policy. Yet it was also acknowledged that the extensive consultation on the development of NPF4 had improved the usability of national policy.

Analysis

The Scottish planning system has moved closer to the model proposed for England in the LURB, in that there are policies in a national document that now form part of the development plan. However, there is a very strong difference in the process which was employed by the Scottish Government in arriving at NPF4. This involved extensive public consultation (which the RTPI assisted the Government in undertaking). It then involved a powerful process of scrutiny by the Scottish Parliament.

3.0 Wales

Future Wales – The National Plan 2040 (2021) forms part of the statutory development plan alongside regional Strategic Development Plans (SDPs) and Local Development Plans (LDPs). These must be in general conformity with Future Wales with this being tested through the plan examination process. Future Wales articulates a number of National Policies and states that “Planning decisions at every level of the planning system in Wales must be taken in accordance with the development plan as a whole” (Future Wales, p.8).

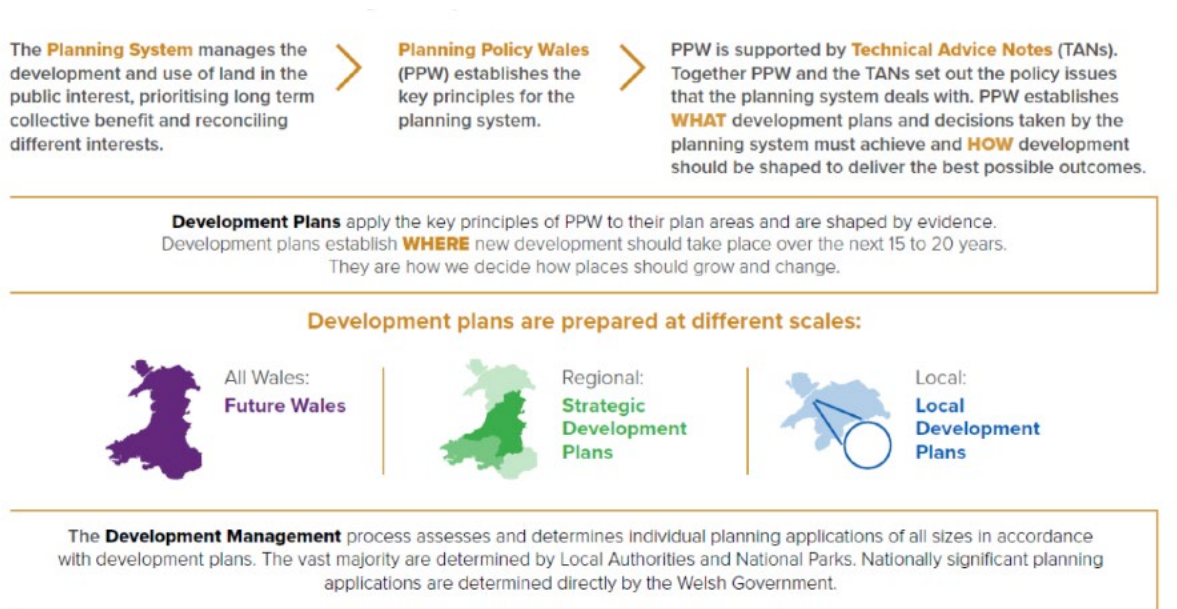


Figure 3 – Summary of Wales Planning System. **Source:** Welsh Government 2021, p.16.

Though it forms part of the statutory development plan, one interviewee commented that “*I guess Future Wales is more like that strategic spatial planning, rather than specifically development management policies*” (Arup Wales Representative 2, 2023). There are as yet no adopted RSDPs in Wales, so the development plan is composed of Future Wales and relevant LDPs. The Well-Being of Future Generations (Wales) Act (WBFGE) (2015) creates a statutory duty for public bodies to consider how decisions will affect sustainable development and “*it kind of frames sustainability in a much more practical way*” (Arup Wales Representative 1, 2023). Planning Policy Wales (PPW) is the equivalent to the NPPF and provides more detailed national planning policy. It is currently on its 11th iteration (2021) and after 2015, was updated to reflect the WBFGE Act. PPW was one of the first documents to hold the WBFGE Act at its core, and as a result, “*Wales is basically structured against that. It definitely drives behaviour*” (Arup Wales Representative 2, 2023).

The Future Wales process involved intense public participation.

Stage 1	Prepare Statement of Public Participation	January 2016
Stage 2	Publish and consult on the Statement of Public Participation (12 weeks)	February – April 2016
Stage 3	Consider responses to the Statement of Public Participation consultation and prepare a consultation report	May – Sept 2016
Stage 4	Gather evidence, develop the vision, objectives and options Undertake Engagement Call for Evidence & Projects	Oct 2016 – March 2018
Stage 5	Publish and consult on main issues, options and preferred option, supported by environmental reports and assessments (12 weeks)	April – July 2018
Stage 6	Consider responses to the main issues, options and preferred option consultation and prepare a consultation report	July – October 2018
Stage 7	Prepare draft NDF Undertake Engagement	October 2018 – June 2019
Stage 8	Consult on draft NDF (12 weeks)	August - November 2019
Stage 9	Consider responses to the draft NDF and prepare a consultation report	November 2019 – August 2020
Stage 10	Assembly consideration of the draft NDF (60 'sitting' days)	September – November 2020
Stage 11	Publish NDF	February 2021

Figure 4- Timetable of preparation of the NDF. **Source:** National Development Framework: Statement of Public Participation, p. 2

Stage 10 shows also how it was scrutinised by the Senedd Cymru in Autumn 2020.

Comparing Wales and England, one interviewee opined that *“the English planning system seems to be constantly compromising, but in a way that's very hard to interpret. But I think the Welsh system seems to be much simpler and more straightforward and gives you a much better framework to make decisions against”* (Arup Wales Representative 1, 2023). With reference to PPW, the same interviewee continued to observe that *“I think where the NPPF in England provides theoretical guidance in high level statements, I think PPW's strength is that it was always much more specific and I think much more practical”* (Arup Wales

Representative 1, 2023). Technical Advice Notes also support PPW and are material considerations in the process of determining applications. Another interviewee noted that an earlier iteration of PPW (9) (2016) had actually referred to thematic policies as “National Development Management Policies” with it being stated there was no need to repeat these locally (Planning Academic Wales, 19.01.23). The same interviewee saw the Welsh planning system as being characterised by relative “*stability*” which was described as being “*fragile, but kind of there*” and planning as having enjoyed ministerial support and perhaps endured fewer “*attacks*” than in England. Another difference is that, as with the NPF in Scotland, Future Wales is part of the statutory development plan, but that NDMPs as proposed in England are to be statutory but not part of the development plan.

Analysis

As in Scotland, in Wales there is a national level of policy which now has statutory weight. Again, as in Scotland, that suite of policies has been subject to both extensive consultation and parliamentary sign off.

4.0 Ireland

Project Ireland 2040 is the name given to the *National Planning Framework (NPF)*. This is given statutory recognition in the *Planning and Development (Amendment) Act 2018*. Together with three Regional Spatial Economic Strategies, the NPF sets out a high-level framework for planning and development in Ireland to 2040. Key policy goals of the NPF are: Growing Ireland's regions, their cities, towns and villages; Building more accessible urban centres of scale; and Better outcomes for communities and the environment, through more effective and coordinated planning, investment and delivery. The NPF is supported by the *National Development Plan*, a 10-year €116 billion investment programme. Major housing and infrastructure applications go to the national *An Bord Pleanála (ABP)* for determination. Below the national scale Regional Spatial and Economic Strategies (RSESs) set the framework for local economic development and spatial planning in three regions – northern and western, eastern and midlands, and southern. Each local authority (City or County Council) acts as the planning authority with responsibility for making planning decisions within its functional area. Each planning authority with a population of 5,000 or over is obliged to make a local development plan with site specific policies. These Development Plans are termed City or County Development Plans (CDP) and are a statutory land-use plan generally consisting of a written statement and associated maps. Below this level Local Area Plans (LAPs) can also be developed. There are also metropolitan area strategic plans associated with the RSES for the cities of Dublin, Cork, Limerick, Galway and Waterford.



Figure 5 – Ireland's Planning System an Overview **Source:** Department of Housing, Planning and Local Government (2018, p.8)

The NPF followed a formal and inclusive public consultation process over a period of three years. It may be summarised as follows:

Date	Action
Oct 2014	Government approval to commence
June 2016	Preliminary stakeholder consultation events
Feb/Mar 2017	Pre-draft National Consultation: including: <ul style="list-style-type: none"> • Issues and Choices Paper • National and regional launches • Student consultation • SEA scoping report
Sep-Nov	Consultation on the draft framework
Feb 2018	Finalisation and approval

This thorough process engaged all government departments in the framework, with a Cross Departmental Steering Group formed in March 2016 which met regularly throughout, and regular meetings of Cabinet committees e.g. the Infrastructure, Environment and Climate Action Cabinet Sub-Committee in July 2017. One of the salient features of the Irish NPF is its strong buy-in from across the government. A key milestone was the decision in July 2017 to align the NPF and the National Investment Plan.

And the role of national politicians was high profile. A briefing to the Oireachtas (Parliament) was held in February 2017. The final plan was signed off by the Irish Cabinet.

The NPF was described by one interviewee (Planning Academic Ireland, 02.02.23) as *“quite general but also quite strong”*. It does contain some clear targets such as that 30-50%, depending on the area, of new homes should be delivered within the built-up footprint of existing settlements (Department of Housing, Planning and Local Government, 2018, p.29). There are also housing numbers and employment projections that are then broken down into regions through the RSES process. These are accompanied by less detailed consultation than on City and County Plans and one interviewee (Planning Academic Ireland, 02.02.23) described the RSES instrument as essentially *“a child of the NPF”* which does not offer *“very strong regional planning”*. The RSES might be characterised as a *“cut and paste of existing County and City Plans”* and are informed too by high-level population figures for 2040 from the NPF. Another interviewee noted that Ireland doesn’t have a *“suite of national policies that affect development management”* (Arup Ireland Representative, 2023). The RSES are very much in the early days of their development.

The Office of the Planning Regulator (OPR) has oversight of City and County Plans and could call-in a plan if there was non-conformity with the NPF or relevant RSES. The OPR is able to refer specific applications to the Minister who will be able to overrule the local plan. Therefore, non-conformance with the NPF and RSES can provide grounds for a call-in. *An Bord Pleanála* can sometimes also *“strongly invoke”* (Planning Academic Ireland, 02.02.23) the NPF in its decision-making on major housing and infrastructure applications. The same interviewee stated that they have even seen the NPF being invoked in individual housing applications.

The situation in Ireland is evolving with the publication of a new *Draft Planning and Development Bill* in December 2022. This will bring in important changes to the planning system in Ireland notably as regards the status of policy guidance issued by ministers

(Currently issued under section 28 of the Planning and Development Act 2000 (as amended). At present local planning authorities must “have regard” to this. In future:

Under the new Bill, these Ministerial guidelines and policy directives will be updated to form “National Planning Policy Statements”. These will comprise “National Planning Policies and Measures” and ‘National Planning Policy Guidance’. All will require Government approval. Alignment with the policies and measures will be mandatory, in that there will be a requirement for other plans to be materially consistent with them. The associated policy guidance will outline how these policies may be implemented. The aim of this measure is to bring greater consistency to how national policy and guidance interacts with the planning system. (Nagel and Sattin, [2022](#))²

Also, under the proposals ABP will be reformed and renamed *An Coimisiún Pleanála* (The Planning Commission). This is the result of litigation around ABP and debate about the time taken to reach planning decisions. The new Bill makes provision for the introduction of “statutory mandatory timelines for all planning consent processes, including ABP decisions” (Nagel and Sattin, 2022). Reviewing the proposed changes and the weight of the national level in plan-making and decision-making on applications, one interviewee (Planning Academic Ireland, 02.02.23) commented “*It is good to have a national plan but the question is who makes it?*” adding that “*centralisation may take away creativity from the city level*”. In an echo of debates in England they added “*Housing is the main theme*” driving planning reform. As in England and Scotland there will be a process of adaptation to the new planning arrangements and subsequent guidance will be required to provide more detail on how the system will work on the ground.

Analysis

The Irish system as proposed would not quite mirror the NDMPs proposed in England. Whilst government authority would be implemented via the *National Planning Policies and Measures and National Planning Policy Guidance* this would be apparently indirectly through requiring plans to comply with them, rather than directly through the operation of development management.

As in Scotland and Wales, a deep process of public engagement was involved and also thorough cross-government buy in.

² “*The new Bill is a manifestation of the Government’s commitment under the “Housing for All” plan, its housing plan to 2030, to carry out a review and consolidation of the planning legislation.*” (Nagel and Sattin, [2022](#))

5.0 Germany

Germany is a federal nation state consisting of 16 states (*Bundesländer*), including three cities (Berlin, Bremen and Hamburg) with the status of a Land. Despite Planning being a devolved matter, national planning legislation sets out a system of plans that is adhered to in all states. It begins with the premise that the landowner has a right to develop - as opposed to the UK where development rights are nationalised.

There are two important pieces of national legislation that frame development at lower levels. The Federal Regional Planning Act (*Raumordnungsgesetz*) applies to state level and regional plans, while the Federal Building Code (*Baugesetzbuch*) applies to local governments. Both plans set out objectives and principles of (regional) planning in addition to the instruments of planning and the procedures to be applied. As planning is constitutionally assigned to the federal states, each of them have their own state planning acts which may include additional principles of planning. Development management policies will be specified in each planning tier, i.e. the state development plan and the regional plan, providing more detail.

In addition, the Standing Conference of Ministers for Spatial Planning (MKRO), which consists of Federal and Länder ministers, formulated *Guiding Principles and Strategies for Spatial Development in Germany* in 2006 and 2016 (BBR/BBSR).

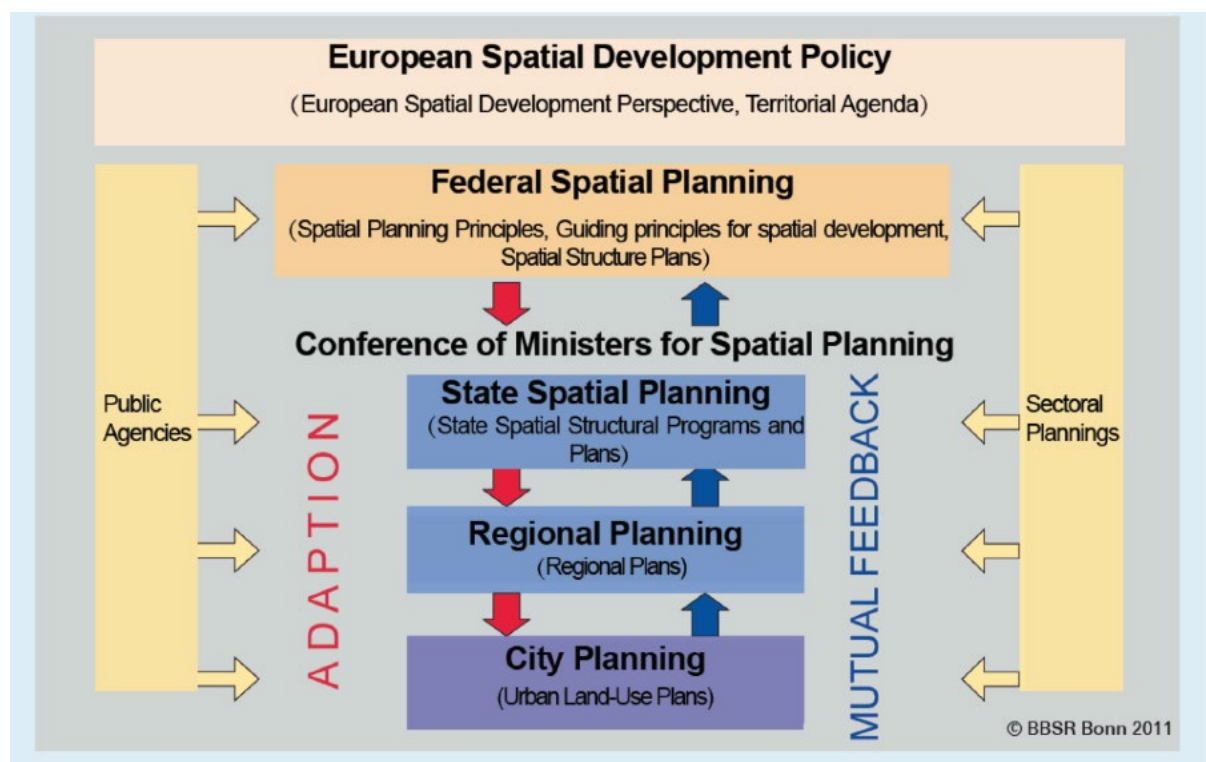


Figure 6 – Scales of Planning Instrument in Germany. Source: BBSR 2011

The most important national development management policy concerns the permissibility of development projects or the different routes on how binding development rights are granted. Initially, it was intended that eventually the whole territory of a municipality would be covered

by binding land use plans. However, this soon proved impossible, so the Federal Building Code includes two provisions which grant development rights to landowners, with different conditions for development within the built-up area (*Innenbereich*) and the non-built-up area (*Außenbereich*). Contrary to common perception, large parts of the built-up area in German municipalities are unplanned (Schmidt-Eichstaedt et al., 2019: 311). Development is permissible if it blends in with the characteristic features of the environment. In a similar vein, the Act grants development rights for the non-built-up area, albeit much more restrictive, generally excluding land uses typically found in the built-up area. The central norm states that:

Within built-up areas a development project is only permissible where, in terms of the type and scale of use for building, the coverage type and the plot area to be built on, the building proposal blends with the characteristic features of its immediate environment and the provision of local public infrastructure has been secured. The requirements of healthy living and working conditions must be satisfied; the overall appearance of the locality may not be impaired. (BauGB 1997, §34(1); translation by German Law Archive).

This norm is very open and has been challenged in administrative courts numerous times, so that there is substantial jurisprudence providing guidance to planning officers. It is also important to note that the municipality still has the possibility of drafting a land use plan.

Objectives of planning (*Ziele der Raumordnung*) and principles (*Grundsätze der Raumordnung*) are differentiated in terms of legal consequences. Objectives need to be followed by lower tiers of government, whereas principles need to be considered in the planning process. The regional planning authorities approve the preparatory land use plan and any amendments. Changes to planning law must be approved by the Federal Diet (Bundestag). The *Bundesrat* (upper house of the German Parliament [composed of Members of Länder governments](#)) can reject the proposal after which it is discussed in a Mediation Committee (*Vermittlungsausschuss*) and returned to the *Bundestag* (lower house of the German Parliament), where it will need to be approved with an absolute majority, or two-thirds majority, or rejected with such a majority by the *Bundesrat*.

Analysis

Given the neo-performative planning system in Germany, exact comparisons with the concept of an NDMP operating in a discretionary system would not be expected. However, the Federal and *Länder* governments do in effect provide for what amounts to national and state design codes. The *Innenbereich* and the *Außenbereich* perform these functions for example. This does have the implication that the equivalent of local plans do not need to go into the detail experienced in England. Indeed, allied to a much stronger tradition of municipalities *leading* development, this does mean that planners are “free to plan” proactively, instead of focussing so much on responding to private sector proposals.

6.0 The Netherlands

In the Netherlands, the national government outlines its national policy in a Structure Vision. These are essentially a continuation of the National Memoranda on Spatial Planning which have been produced since in the 1960s at an interval of roughly one per decade. These vision documents set out Government policy for the foreseeable future but are indicative only and very much focussed on bigger picture issues. The current National Structure Vision sets out four main priorities (BZK, 2020):

Priority 1: Space for climate adaptation and energy transition

Priority 2: Sustainable economic growth potential

Priority 3: Strong and healthy cities and regions

Priority 4: Futureproof development of rural areas

Dutch Local Authorities are required to outline their own future development in a policy document also called Structure Vision. Each Local Authority enjoys relative freedom in what it puts into this document which mainly says what the Local Authorities' own plans are. The Local Authority is not bound by its document, but deviation from the document needs to be justified, so it carries significant weight in legal procedures. In that sense it is not dissimilar to the Local Development Plan in the UK in offering a starting point of framing principles against which developments are assessed.

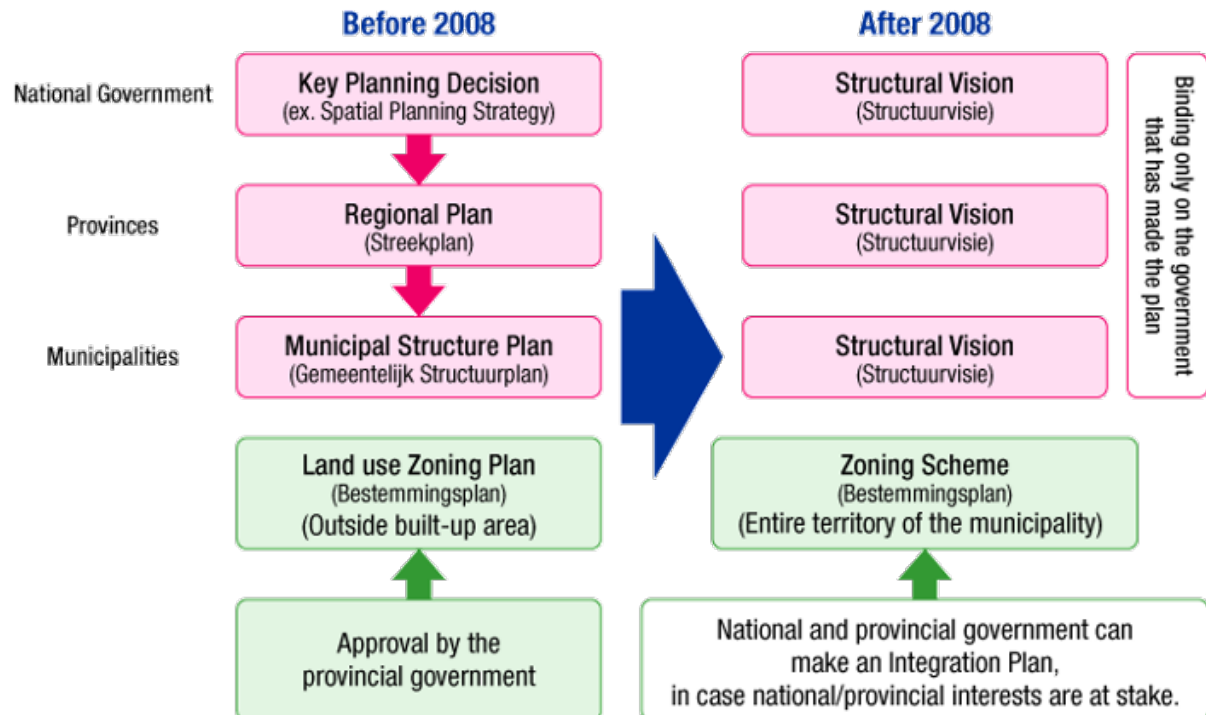


Figure 7 – The Hierarchy of Plans in the Dutch Planning System Source: MLIT

The requirement for approval of lower tier plans and visions by higher tiers of government has now been abolished (see figure 7), but these levels can still directly intervene if local planning contravenes regional or national policy. The National Government can safeguard its own interests and desired planning objectives in a number of ways. A national land use integration plan can overrule any local plan (similar to the Secretary of State calling in a planning application) but this must be justified in the national interest. Ministerial Guidance can also be issued, as it has been for instance on the topic of energy transition in relation to solar panels to prevent agricultural land being completely covered with solar panels. Despite these powers, overall, the Dutch Government does not interfere very strongly in local planning.

One interesting feature of Dutch planning for development management is forms of bottom-up reflection on how to approach the process effectively. The Dutch Local Government Association, for example, has produced guidance for the interpretation of environmental norms. Whilst not legally binding, it helps Local Planning Authorities in drafting zoning plans that are legally watertight if they should come to be challenged in the administrative court. Effectively, Local Planning Authorities are cooperating to formulate a form of NDMPs in a bottom-up fashion which makes land use planning and development management at the microscale of zoning more efficient. This bottom-up approach allows experience of development management to be shared and for greater certainty to be achieved in the planning process.

Analysis

Whilst in the Netherlands there is the potential for national governments to intervene in planning, this operates more like it has in the past in England, via government involvement in plan making rather than setting out development management policies. There does not appear to be any equivalent of the appeal to national government in cases of local refusal, which is such a central feature of planning in England.

7.0 Workshop Findings

To deepen understanding of practice and the potential implications of the proposed changes in England and to complement the desk-based and interview findings presented above, an expert workshop was held in Liverpool at the beginning of February 2023. This brought together planners with experience of working in diverse fields of planning including local and devolved government, private consultancy, utilities planning, planning law, and social housing.

The scope, thematic focus and status of NDMPs – clear enough on paper? But what about in practice?

The workshop explored the scope of NDMPs as proposed by the government in its consultation. This was described as *'relatively sensible'* by one participant and there was some sympathy with the general aim of trying to make planning policy simpler to understand and more consistent across scales. There was less confidence in the 'policy gaps' which have been identified so far by the government as potentially requiring the introduction of NDMPs. As regards the topics which those present thought might be amenable to treatment through the NDMP instrument, these included how to address the needs of an ageing population (including housing), health and well-being, and design codes. In other areas such as green belts there was uncertainty about what a dedicated NDMP may add, given the longstanding and widely accepted and understood nature of green-belt policy. Some participants cited the loss of detail and technical advice associated with the pre-NPPF system of PPGs/PPSs and planning Circulars and wondered if recovering this could be one advantage of trying a new approach to national planning policy. It was also felt, however, that many questions remain about the form and content of NDMPs, notably the evidence base and form and extent of consultation on which they will be based.

Discussion also considered how NDMPs might work in practice – notably how they might integrate with and/or modify the existing hierarchy and weighting of plans and policy used in making planning decisions. Despite some clear principles in the new legislation, for example, that new development plans will be precluded from including policies that duplicate or are inconsistent with NDMPs, and that these would take precedence where there is conflict with development plan policies when deciding on a planning application, there was a feeling that there will still be scope for different interpretations. The planning lawyers present suggested that this might be 'good for business' for those working in planning law, but neither they or the rest of the room really welcomed the potential for new uncertainty to be introduced into the delicate relationships and weightings which characterise decision making in English planning.

Learning from other planning systems – centralisation or local autonomy? What is the way forward?

The results of the review of the national planning policy frameworks in place in Scotland, Wales, the Republic of Ireland, Netherlands and Germany outlined in earlier sections were also presented at the workshop and those gathered considered whether these provided insights that might usefully inform the development of NDMPs. It was noted that in both Wales and Scotland the National Plan and the National Planning Policy Framework (NPF)

respectively are part of the statutory development plan. Meanwhile in Scotland the new NPF for the first time also incorporates Scottish Planning Policy (SPP). It was acknowledged that there was a difference between the national planning frameworks in place in some other jurisdictions, the present NPPF in England, and the proposals for NDMPs. However, it was also noted that moves to strengthen national level planning policies and to seek to 'streamline' development plans and their preparation in England were a feature of some other planning systems in the UK too (e.g. in Scotland). There were however some important differences on issues like scrutiny of policy with the NPF in Scotland, for example, being based on extensive consultation and requiring Parliamentary approval. (The RTPI has stressed that NDMPs should both be subject to extensive public consultation – arguably at a much deeper level than is usual with central government – and Parliamentary sign off.) The examples of the Netherlands and Germany confirmed that in federal systems and states with authentic local self-government, subsidiarity and local autonomy remain important features of planning, and communication instead of coercion must be used when seeking to pursue wider statewide objectives through planning.

Remaining questions around NDMPs – will they make any difference, what happens to strategic planning, and who is going to actually draft them?

The workshop also featured at times quite animated discussion of the issues that might be associated with the introduction of NDMPs. A number of participants questioned whether they would really have the impact that the government seems to be hoping for. The wording indicating that "Decisions on planning applications" will "need to be made in line with the development plan and National development Management Policies, unless material considerations strongly indicate otherwise" could possibly give considerable weight to NDMPs in decision making. However, some argued this would not necessarily prevent decisions being made by elected members which departed from the development plan and NDMPs where local political considerations and citizen opinion created pressure for alternative planning outcomes.

Another concern shared by both private and public sector participants was the scope for more centralised direction of detailed planning policies to reduce local autonomy and perhaps even more importantly the scope for innovation in planning approaches. Some present also indicated that there is a contradiction between ostensible moves towards greater devolution, and more citizen influence over planning, and the reinforcement of the status of centrally determined planning policy. This was a particular issue for the 'larger than local' scale of planning being pursued in different formats by combined authorities. The question being where might this level designed to provide tailored strategic planning frameworks 'fit' in a context of greater centralisation of policy? Would partners see the point in continuing with such planning exercises at an intermediate scale? This was also an issue raised in other jurisdictions such as Scotland where the priority which will be accorded to new Regional Spatial Strategies, remains to be seen.

As regards the plan-making process, although one of the key reasons stated for introducing NDMPs was to reduce the time needed to produce Local Plans, it was considered this wouldn't necessarily be greatly reduced by their introduction. Other matters and tests would still be required in the plan-making process, and the argument around the speed of plan-making did not seem to be one of the stronger grounds for introducing NDMPs.

There were also concerns that, whilst in theory, NDMPs could provide “policy safeguards” with statutory weight on nationally important matters such as on flood risk, policy on climate change, and green belts, that they may not be innovative enough in tackling some of the issues and challenges these raise. Current amendments to the NPPF do not add much on net zero for example, and so some queried why the NDMPs would be any different. This could mean that LPAs aren’t encouraged to go far enough on certain issues in their local plans. And some may still wish to create a policy in their local plan which goes above and beyond the requirements of the NDMPs – for example, one participant noted how Bath has recently adopted a net zero housing policy. Assuming that national policy will be a ‘floor’ rather than a ‘ceiling’, and given that LURB “retains considerable scope for local planning authorities to produce their own local plan policies on distinctly local issues”, then is there any certainty that introducing NDMPs will lead to reductions in the length of local plans? There was also concern that the NDMPs may be too broad due to the stated aim that they should be relevant to the entire country, or “significant parts” of it. Therefore, LPAs may still want to consider adding policies to make them specific to the characteristics of their authority. Perhaps reflecting the northern English setting of the workshop, the risk of policies being drafted from a “typical” London and Southeast England perspective was also noted as a potential issue.

Another issue raised by some participants was the capacity to actually draft effective DM policies. It was noted that at local planning authority level there is scope to develop understanding between those drafting development plan policies and those working in development management who use them to support recommendations on particular applications. In contrast there were questions about how NDMPs would be drafted and whether those doing the drafting would necessarily have the planning background and experience to craft policies with the clarity, usability, and national–local relevance which the government claims it is seeking.

The discussion concluded that at this stage, given the detail available, only the potential impacts of introducing NDMPs could be considered. Further consultation would be required on the first NDMPs to be introduced and on the topics that they should cover. This would allow people to better understand their scope and provide further responses on any gaps, missed opportunities, limitations and flaws. In procedural and legal terms this further consultation was essential as the LURB gives far-reaching powers to ministers to formulate new NDMPs. Adequate checks and balances and a clear definition of which matters might be appropriate for treatment in NDMPs in the ‘national interest’ would also be needed. As always with alterations to planning policies and instruments, time would be needed to fully assess how these will bed down and work in practice.

8.0 Discussion of Findings

The desk research and workshop revealed important aspects of national planning policy which can be grouped in terms of Process used to arrive at a conclusion; Content of national policies; and implications for the wider context.

PROCESS

Political scrutiny

The various jurisdictions studied vary in terms of the level of political scrutiny applied to national level planning policy. In Scotland, for example, as well as being extensively consulted on, the NPF must have Parliamentary approval. Therefore defining national level planning policy in Scotland is arguably less a matter of executive/ministerial influence than the model of 'ministerial direction' proposed for the adoption of NDMPs in England.

Public participation

Another issue raised in the research was the need for legitimacy of national planning policy, especially if its status in decision making on planning applications is to be enhanced. Tensions between greater national direction of planning policy and stated aims around localism and devolution have been aired widely in the debate around the LURB and were also present in the comments of participants in this research.

The UK Government might consider adopting a consultative approach that strives to take the views of consultees on board in updating draft NDMPs, both for reasons of legitimacy and those of effectiveness (i.e. policy usability).

As always with alterations to planning policies and instruments, time will be needed to fully assess how NDMPs will bed down and work in practice, alongside such initial consultation.

Within development plan

The Scottish and Welsh documents are part of the development plan alongside Local Development Plans conferring a stronger status in decision-making on planning applications (with the NPF also now integrating national planning policy). One difference with what is proposed in England is therefore that, whilst the proposed NDMPs will be statutory, they will still not be an integral part of the development plan.

Across the elements of the research there was a clear message that clarity was needed on how NDMPs – which will be statutory, but not sit within the development plan – would fit into and potentially modify the weighting attached in decision making to different kinds of plan and planning policy within English planning. Otherwise, there might be a legal uncertainty which could only be resolved in the courts.

CONTENT

Spatially-specific

The research revealed differences in the approach taken to NDMPs and equivalent policies in the different planning jurisdictions reviewed, but also some similar themes and debates. An obvious difference with England was the presence in the other planning jurisdictions of (more or less) spatially-specific planning frameworks and plans at the national level. Clearly these differed from the largely aspatial English NPPF but were also varied between the other planning jurisdictions too. The Spatial Vision and Guiding Principles and Strategies for Spatial Development present in the Netherlands and Germany respectively were more indicative than, for example, the National Plan in Wales or the NPF in Scotland.

Practicality

Another theme to emerge from the work, and highlighted by participants, related to the ‘usability’ of DM policies in the DM process. Here the question was how to make NDMPs sufficiently detailed to be usable in DM decision-making, but sufficiently flexible to respond to and be appropriate in different local contexts. It was also noted that the crafting of effective DM policies was a skill and often an iterative process. It was noted by some interview and workshop participants that plan-making and DM planners in planning authorities have been able to exchange experience and information about the usability of policies so that their effectiveness can be improved through different iterations of local plans. Would this kind of experience and knowledge be available to those at national level in England who will be tasked with developing the proposed NDMPs? It might therefore make sense for the drafting of NDMPs to be informed by appropriate planning expertise. This would promote a better understanding of any gaps, missed opportunities, limitations and flaws and lead to development of NDMPs better attuned to playing a meaningful and constructive role in the DM process.

The findings also indicated that NDMPs as such are not common in rules-based systems such as the Netherlands and Germany. Primary legislation sets out general principles (on top of procedures), whilst planning and sectoral laws and secondary legislation set out environmental standards. Ministerial and other guidance may set out objectives, but the system of plans and subsidiarity and local autonomy were perhaps the defining features of Dutch and German planning. National–local communication was essential and the national scale did not really intervene in local planning other than perhaps to, for example, uphold environmental standards or address issues of national interest.

Generally, suggestions were centred around the need for clarity and precision of the future NDMPs and ensuring a reasonable level of detail for the benefit of LPAs. For instance, one interviewee stated that “*NDMPs should be detailed enough to enable council planning officers to make a decision in the absence of direction from local policy*” (Arup Scotland Representative, 2023). This complemented another interviewee’s argument about wanting to see more regulation within NDMPs, particularly at the local level. They observed that:

“regulation makes the process for development management easier because it’s not as discretionary. Discretionary systems become more convoluted because interpretation means that you’re referencing case law and when there’s a lack of regulation, there is a massive lack of certainty. You are better to have a really

structured, regulated system right down to the local level of what you can build and where you can build it” (Arup Ireland Interviewee, 2023).

Topics

The UK Government has proposed NDMPs as a way of providing “policy safeguards” with statutory weight on certain nationally important matters where local policy is absent, or out of date. Some ‘policy gaps’ have already been identified by the government in its consultation as potentially requiring the introduction of NDMPs. Other topics were suggested by participants in the research as potentially being amenable to treatment through the NDMP instrument (including the needs of an ageing population, health and well-being, and design codes).

Another theme to emerge from the research was that, whilst as noted above, in theory NDMPs could provide “policy safeguards” with statutory weight on nationally important matters such as on flood risk, policy on climate change, and Green Belts, they may, however, not be innovative enough in tackling some planning issues and challenges. This could mean that LPAs are not encouraged to go far enough on certain issues, such as net zero, in their local plans. Conversely, where local ambition surpasses the framework provided by national policy, then LPAs may seek to add additional policies into their local plans to supplement weaker national policies, negating the Government’s stated aim of simplifying and paring back the alleged complexity of planning policy.

CONTEXT

Centralisation

In Ireland, criticisms of planning have led to proposals for extensive reforms of planning with some strengthening of the national scale also on the agenda. While the centralisation of policy and power in England is well-known, and often criticised, similar moves to strengthen national level planning policies were observed in some of the other jurisdictions. This was often justified with similar arguments about introducing greater certainty, reducing duplication of policy, and accelerating timescales for decision making around planning applications.

While undertaking this research we found there was also some sympathy with the goal of trying to reduce duplication of policies across planning scales and with attempts to introduce more certainty to the DM process for users of the planning system. The ease with which national scale DM policies with relevance across diverse local contexts might be developed was questioned, however, and was associated with concerns around a ‘one size fits all’ approach. This, for example, could (and in some of the contexts studied it was argued it already has) adversely impact creativity and the scope for innovation in planning approaches and reduce autonomy at a local and strategic planning level.

Regional planning

Another impact of greater centralisation was a potential for a de-prioritisation of the intermediate strategic scale of planning. This was raised as an issue in the workshop and by some interviewees based in England. It also emerged as an issue in Wales and Scotland. Here the regional scale of planning strategy has yet to emerge (Wales) or is likely still to receive limited focus. There was a feeling that most attention in Scotland would focus in the immediate future on the LDP (local planning) scale. Essentially the question was *‘where will*

this scale fit' if more centralisation with a potential for an attendant decline in policy and place specificity is to be the order of the day? One interviewee from Scotland described regional planning there as being “mothballed” and an interviewee from Ireland described the RSES documents there as being a “more of a copy paste from the National Planning Framework” and as “not very strong regional planning”.

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