

**Just Space Zoning Research**  
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Policy background

Proposal 1 of *Planning for the Future*, the Planning White Paper released in August 2020, proposes to simplify land use planning in England by assigning all areas of land to one of three categories: Growth Areas, Renewal Areas and Protected Areas (MHCLG, 2020)

**Growth Areas** will be ‘suitable for substantial development’ – a term which will be legally defined at a future date – with automatic permission in principle for development

**Renewal Areas** will be ‘suitable for development’ – this will include small sites, infill and densification, with a presumption in favour of development

**Protected Areas** with stricter development controls, where planning applications will still be decided by the council, using the National Planning Policy Framework

An alternative proposal is for Growth and Renewal Areas to be combined in one category, with permission in principle extended to cover both.

Areas would be assigned to these three categories in Local Plans. The Local Plan would set out suitable uses, building heights, density etc for Growth and Renewal Areas, or for sub-areas within these areas, determined locally but based on national guidance. ‘For example, it may be appropriate for some areas to be identified for higher-density residential development, or for high streets or town centres to be identified as distinct areas.’ (p. 29) These sub-categories of areas are not set out in the White Paper, and presumably will be developed at a later date.

Alongside the Local Plan, local authorities will be required to appoint a Chief Design Officer who will produce a local design code, based on local consultation (Proposal 11, p. 48). This would complement a nationally-written design code – which would serve as the default until a local one was operating.

The proposals have been identified as a bid to introduce zonal planning in England, in place of the current discretionary system, although the word ‘zoning’ is not actually used in the White Paper. The RTPPI briefly summarises the pros and cons of zoning as follows:

	Pros	Cons
Certainty	Reduces risk by guaranteeing that any development can proceed if compliant with zonal requirements	Increased certainty reduces flexibility, innovation and the ability to quickly respond to changing circumstances. Reduces certainty for developments that do not fit with zonal requirements
Politics and democracy	A greater focus on the plan making process, with the front loading of decision-making and public consultation to	Hard to genuinely engage with communities about changes that may not happen for many years, and lack of opportunity for

	create zoning maps and regulations	communities to be involved in detailed matters like design and amenities after zone has been 'made'.
Opportunity cost	Provides greater certainty for developments that comply with zonal requirements	Remodelling the English planning system would be complex and create uncertainty during an extended transition period whilst 'upstream' consultation on zones was undertaken. Zoning plans can become outdated and require frequent amendments.

(Source: RTPi, 2020)

The White Paper proposals draw heavily on two think tank papers also published in 2020; the detail summarised below may help to illuminate some of the intention behind the proposals.

### Policy Exchange

Jack Airey, the Special Advisor who drafted the White Paper, set out his earlier thinking on planning reform in a document published by Policy Exchange in early 2020 (Airey, Doughty, 2020). This proposes a binary zoning system of development and non-development land, with development zones to include existing urban areas and 'urban extensions made possible by improved infrastructure'. National guidance would identify 'harmful', mutually exclusive uses, and protected uses. The local plan would become a 'development framework' rather than an 'end-state vision', with 'markets the main factor shaping land use of private plots in development zones, and 'state design' in local plans limited to 'binary zonal designations, street layout and public space'. We are told that this 'would allow places to grow organically, the same way that places such as Washington DC, Paris and Barcelona grew.'

Benefits of this new approach to planning would include 'broader access to property wealth' – reducing house prices and rents by increasing supply; a 'more beautiful built environment' because, apparently, lower land costs and greater certainty would encourage developers to compete on quality; and 'Climate leadership' through the delivery of new infrastructure. The paper references and is influenced by Alain Bertaud's view that markets should determine urban form, with the exception of street networks (e.g. infrastructure) which should be provided and designed by government (Bertaud, 2018).

### Centre for Cities

The proposals in the White Paper are also influenced by Centre for Cities research on Zoning, published in June 2020 (Breach, 2020), which says that zoning can solve the crisis in the housing supply. Measures proposed in this document that have made their way into the White Paper include:

- A flexible zoning code with as few zones as possible, with most 'ordinary' neighbourhoods to be zoned for gradual densification
- Local authorities must grant permission to develop for proposals which comply with the national zoning code (and building regulations)
- Public consultation to be limited to the creation of local plans and local rules for aesthetic elements (i.e. design codes)
- Special designations (inc. conservation areas) to be included in local plans, subject to economic cost-benefit analysis and central government approval
- 20% (of total development value) a flat tax on development except in areas/regions where property values are very low. This 'Infrastructure Levy' would replace S106 and CIL, though Mayoral CIL could continue. (A Just Space briefing is available [with more detail on this topic](#) and the affordable housing implications. )

The proposals in this report are influenced by Japan's approach to zoning, and reject the approach commonly taken in the US, both outlined briefly below.

### **The opportunity for reform**

Criticisms that the current planning system is inefficient and a barrier to successful and appropriate development are not limited to free marketeers. In its Manifesto for Planning and Land Reform (Colenutt et al, 2012), Planners Network UK called for a more democratic planning system that serves the public interest. A key feature of this would be to 'erase the expectation among us Brits [...] that land and housing prices are going to rise in the long term.' Developers currently have a perverse incentive to sit on scarce land and wait for the value to rise, or to 'flip' it once permission is granted. In addition to providing 'certainty' to developers (if that is, indeed, what they desire), zoning land for development has the potential to stabilise land values and reduce speculation.

The Raynsford Review of Planning (TCPA, 2018), sets out similar objectives to those cited in the White Paper, prioritising 'the wellbeing of people within the overarching objective of long term sustainable development, aimed at making places of safety, beauty and resilience'. It takes aim at the current planning system, saying it is 'less effective than at any time in the post-war era'; that it is failing to produce vibrant and beautiful places, and often leads to poor quality development. However, its recommendations are starkly different, emphasising greater public participation in planning, and the immediate curtailment of permitted development, powers over which should be devolved to the local level.

## How does zoning work in other countries?

### Japan

Japan has a complex and multi-layered approach to planning, including a national spatial strategy. There is also a national zoning framework set out under City Planning Legislation, which requires regional Prefectures to set out zones for spatial development, and Municipalities to produce detailed zoning maps (OECD, 2017). The Centre for Cities research mentioned above is heavily influenced by Japan's approach to the latter. Urban land use is split into 12 flexible zones, [each of which layer on uses and intensity](#), with polluting and otherwise harmful uses segregated.

### ● Control of Building Use by Land Use Zones

Examples of buildings	Control of Building Use by Land Use Zones												
	Category I exclusively low-rise residential zone	Category II exclusively low-rise residential zone	Category I mid-high-rise oriented residential zone	Category II mid-high-rise oriented residential zone	Category I residential zone	Category II residential zone	Quasi-residential zone	Neighborhood commercial zone	Commercial zone	Quasi-industrial zone	Industrial zone	Exclusively industrial zone	Areas with no land use zone designation (Utilization Control Areas are excluded)
Houses, Houses with other small scale function (store, office, etc.)	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	usually cannot be built
Kindergartens, Schools (Elementary, Junior High, Senior High)	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	usually cannot be built
Shrines, Temples, Churches, Clinics	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	usually cannot be built
Hospitals, Universities	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	usually cannot be built
Stores (mainly selling dairy commodities)/Restaurants with floor space of 150m <sup>2</sup> max. on the first or second floor (excluding※)	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	D
Stores/Restaurants with floor space of 500m <sup>2</sup> max. on the first or second floor (excluding※)	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	D
Stores/Restaurants not specified above (excluding※)	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	usually cannot be built
Offices, etc. not specified above	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	usually cannot be built
Hotels, Inns	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	usually cannot be built
Karaoke boxes (excluding※)	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	usually cannot be built
Theaters, Movie theaters (excluding※)	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	usually cannot be built
※Theaters, Movie theaters, Stores, Restaurants, Amusement facilities and so on, with more than 10,000m <sup>2</sup> of floor area	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	usually cannot be built
Bathhouses with private rooms	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	usually cannot be built
Independent garage with floor space of 300m <sup>2</sup> max. on the first or second floor	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	usually cannot be built
Warehouse of warehousing company, Independent garage of other types than specified above	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	usually cannot be built
Auto repair shop	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	usually cannot be built
Factory with some possibility of danger or environmental degradation	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	usually cannot be built
Factory with strong possibility of danger or environmental degradation	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	can be built	usually cannot be built

Note A : Must not be built on the third floor or higher. Must not exceed a floor area of 1,500m<sup>2</sup>.  
 B : Must not exceed a floor area of 3,000m<sup>2</sup>.  
 C : Audience seating floor area must not exceed 200m<sup>2</sup>.

D : Stores and restaurants must not be built  
 E : Floor area must not exceed 50m<sup>2</sup>.  
 F : Floor area must not exceed 150m<sup>2</sup>.  
 G : Floor area must not exceed 300m<sup>2</sup>.

(Source: City Planning Division, Ministry of Land, Japan)

The Centre for Cities claims that Japan has better housing outcomes than England, [including cheaper rents, and more supply of new homes](#). However, while this approach to zoning is successful at supporting a mix of uses, it has also produced an urban fabric that is [notably less coherent than the UK's](#) with little built heritage or differentiation between cities, and poorly regulated, sometimes unsafe construction (Keenleyside et al, 2009). In addition, Japanese society has many structural differences from the UK, including [lower income inequality](#), and [less social housing](#). In Japan property ownership is simpler than in the UK, with no equivalent of Leasehold. The property bubble of the 1980s led to some recognition of the limitations of Japan's long established right-based system, with the Basic Land Law of 1989 stating that public benefits are to be given priority over the use of land when it is in the public interest' (Sorensen, 2010) –this codification of the social value of land has led to increased regulatory powers for local authorities in determining the local landscape.

## United States

The United States has no federal, and just 12 state-level, spatial plans (of which only seven are legally binding), with planning mostly conducted at municipal level via Zoning Ordinances (OECD, 2017). Zoning ordinances usually specify three main single uses (residential, commercial and industrial), with sub-categories specifying the types of use (eg light, medium or heavy industrial), [with height, lot size, parking, landscaping etc restrictions that vary according to intensity](#). (NB. This is widely referred to as ‘Euclidean’ zoning, after a court case involving the City of Euclid, Ohio).

### *Single-family zoning*

Since the early 20<sup>th</sup> Century, American zoning ordinances have been dominated by single family dwellings, [indeed it is illegal to build anything but single family homes on 75 per cent of land zones for residential dwellings](#). Criticisms of this approach include that it excludes poorer residents (and is based on explicitly classist and racist motivations) (Manville, Monkonnen, Lens, 2019), makes housing less affordable (Nadeau et al, 2020), and contributes to urban sprawl (Peiser, 2001) and car use (Wegmann, 2020). Some US cities have now embarked on reform of single family zoning, [notably Minneapolis](#).

### *New York*

New York’s current citywide Zoning Resolution was adopted in 1962. The zoning resolution is 1,300 pages long, with numerous single uses across residential, commercial, industrial and special purposes, each setting out heights, setbacks etc, overlaid with special areas, heritage requirements and so on (Department of City Planning, 2018). The resolution does not appear to be subject to periodic review, as Local Plans are – instead updates and amendments are made to the resolution [‘when changing conditions warrant them’](#). Most development in New York is done as of right; when developers wish to seek a rezoning they have to go through a [six-to eight-month Uniform Land Use Review Process \(ULURP\)](#). [Communities have the opportunity to oppose rezoning](#) (for example if they believe it will adversely affect the local environment, or lead to gentrification), but [poorer communities may lack the time, money, and specialist skills to engage effectively in the process](#). Criticisms of rezoning, or ‘up-zoning’ from industrial to residential include that it promotes property speculation and reduces employment opportunities for working class communities, driving gentrification (Wolf-Powers, 2005)

The New York City Zoning resolution is accompanied by land use maps. In 2018 this was digitised into a [fully interactive](#) map showing zoning, overlays, property taxes and land ownership, creating a more accessible and transparent resource. This could potentially be a model for the interactive land use maps proposed in the White Paper.

## The Netherlands

Dutch planning practice is notable for its commitment to principles including spatial coherence and spatial justice, state intervention to achieve better outcomes, and generous allocation of resources to municipal planning (Keenleyside et al, 2009). Dutch planning law requires strategic Structure Plans at all three levels of government – national, provincial and municipal, in addition to municipal *Bestemmingsplannen* – land use plans. In practice, the municipal level is the most influential, with national and provincial government rarely using

their powers to veto planning decisions. Municipalities are also active in property markets; they have strong powers to veto undesirable developments, to purchase land, and to make preferred developments happen, even where they contradict existing plans.

In addition to Land Use Plans, the main form of zoning plan, which is legally binding for property owners, but permits some flexibility for plan making authorities, there are Project Plans, which can be used to ensure preferred projects take place, and Management Ordinances, which restrict development in areas where no major change is foreseen. (OECD, 2017) According to [Shelter](#), the Netherlands uses zoning to improve affordability and quality of new homes by including requirements for affordable homes, green space etc, and this in turn suppresses land values (citation). With these requirements clearly set out in advance, the onus is on the developer to negotiate a reasonable price for the land at the outset, rather than encouraging speculation on land values with losses recouped on the grounds of viability.

### *Self-build*

Municipalities in the Netherlands have embraced self-build as a means of extending home ownership affordably. For example [in the city of Almere](#), the local authority has made plots available at commercial cost for individuals to build their own homes. Historic Dutch cities are famous for the [variety of design details](#) in their domestic architecture, but the absence of design guidelines for self-builders in Almere has arguably [not been so successful](#).

## **Germany**

Germany is 'the country credited with inventing land-use planning' (Hirt, 2010). Today it has a rights-based regulatory planning system, with 'binding land use plans' (**Bebauungsplannen**) created at municipal level, within a federal framework of land use classes and intensities (the BauNVO). The German system 'guarantees the right to build, but the land-use plan prescribes what can be built.' (Pantel, G., 1994) From the early 20<sup>th</sup> Century onwards, Germany's 'inclusive' approach has sought to promote mixed use, and mixed communities, with supplementary uses (shops, small industry etc) permitted in residential areas, and zones shaped by intensity rather than a single specified use. (Hirt, op cit; Lichfields, 2018).

FNP	Bebauungsplan	
Bauflächen Allgemeine Art der baulichen Nutzung	Baugebiete Besondere Art der baulichen Nutzung	Gebietszweck
<b>W</b> Wohnbauflächen § 1 (1) Nr. 1 BauNVO	WS Kleinsiedlungsgebiete (§ 2 BauNVO)	Dienen vorwiegend der Unterbringung von Kleinsiedlungen einschließlich Wohngebäuden mit entsprechenden Nutzgärten und landwirtschaftlichen Nebenerwerbsstellen sowie den Einrichtungen zur Versorgung des Gebiets.
	WR Reine Wohngebiete (§ 3 BauNVO)	Dienen dem Wohnen. Andere Nutzungen sind nur ausnahmsweise zulässig.
	WA Allgemein (§ 4 BauNVO)	Table of types of building area in accordance with the Federal Land Utilization Ordinance lassen.
	WB Besondere Wohngebiete (§ 4a BauNVO)	Sind in erster Linie Allbaugebiete mit vielfältigen Nutzungen, die aber vorwiegend dem Wohnen dienen sollen.
<b>M</b> Gemischte Bauflächen § 1 (1) Nr. 2 BauNVO	MD Dorfgebiete (§ 5 BauNVO)	Dienen vorwiegend der Unterbringung land- und forstwirtschaftlicher Betriebe sowie grundsätzlich der ganzen, in kleinen Orten anzutreffenden Nutzungsmischung.
	MI Mischgebiete (§ 6 BauNVO)	Dienen dem Wohnen und der Unterbringung von Gewerbebetrieben und anderen Einrichtungen, die das Wohnen nicht wesentlich stören.
	MU Urbane Gebiete (§ 6a BauNVO)	Dienen dem Wohnen sowie der Unterbringung von Gewerbebetrieben und sozialen, kulturellen und anderen Einrichtungen, die die Wohnnutzung nicht wesentlich stören.
	MK Kerngebiete (§ 7 BauNVO)	Dienen vorwiegend der Unterbringung von Handelsbetrieben sowie den zentralen Einrichtungen des städtischen Lebens.
<b>G</b> Gewerbliche Bauflächen § 1 (1) Nr. 3 BauNVO	GE Gewerbegebiete (§ 8 BauNVO)	Dienen vorwiegend der Unterbringung von nicht erheblichen belästigenden Gewerbebetrieben.
	GI Industriegebiete (§ 9 BauNVO)	Dienen ausschließlich der Unterbringung von Gewerbebetrieben, und zwar vorwiegend solchen, die in anderen Baugebieten unzulässig sind.
<b>S</b> Sonderbauflächen § 1 (1) Nr. 4 BauNVO	SO Sondergebiete, die der Erholung dienen (§ 10 BauNVO)	Das sind vor allem Wochenend- und Ferienhausgebiete sowie Campingplatzgebiete.
	SO Sonstige Sondergebiete (§ 11 BauNVO)	Sind all die Gebiete, die sich durch dominierende Nutzungen von allen anderen Gebieten unterscheiden, wie zum Beispiel große Einkaufszentren, Hafengebiete, Hochschulgebiete, Klinikgebiete.

Image of the BauNVO for the city of Frankfurt: the city's zoning framework is adapted from federal legislation and sets out 12 use classes in total, split into four predominant uses (Residential, Mixed Use, Commercial and Other). (Source: [https://www.stadtplanungsamt-frankfurt.de/type\\_of\\_built\\_use\\_5763.html?psid=2](https://www.stadtplanungsamt-frankfurt.de/type_of_built_use_5763.html?psid=2)).

The German approach bears some resemblance to Japan's, but here the right to develop a plot is accompanied by obligations for developers to deliver affordable housing, green space etc, for example with developers in cities including Berlin and Hamburg expected to deliver affordable housing as a proportion of the increase in land values, or to provide sub-market rents in line with direct subsidies received. Hansson (2019) likens this 'inclusionary' approach to Section 106. In addition, the municipalities are empowered to intervene in markets, for example making direct allocations to municipal housing companies, or offering first refusal to not-for-profits before selling remaining sites to private developers.

In addition to uses, Municipal land use plans (*Bebauungsplannen*) include some design guidance or are accompanied by more detailed design manuals, and municipalities also are empowered to engage in negotiations about scheme design with developers. Municipalities have the flexibility to choose the degree of design controls they impose – typically those with high quality urban environments which are attractive to tourists will impose greater design controls than those in need of inward investment and growth. Many municipalities

also have voluntary design committees, including design professionals, who are invited to comment on scheme proposals.

## Conclusions

**There is too little detail in the current proposals.** Three (or two) ‘areas’ – growth, renewal and protected – is a system far simpler than any of the international examples cited. Is it appropriate for England – a country where development is highly politicised, there is a deficit in spatial justice, and the greatest housing need is concentrated in areas with little available space for development – to becoming a testing ground for such a radical approach?

### **Nations have their own planning cultures**

Many of the countries outlined above have systems which date back to the 1960s or earlier: England cannot simply ‘import’ another planning culture. In addition, countries such as the Netherlands and Japan have their own internal debates about the weaknesses of their planning systems.

### **Zoning is not a one size all fits approach**

Successful systems (for example Germany) have a multi-scalar approach, with strong national or regional spatial strategies. Some states successfully deliver more affordable housing, (the Netherlands), and/or thriving mixed-use communities (Germany). Even in nations where there is less state intervention – for example the US – zoning ordinances are complex and multi-layered.

### **The limits of zoning**

Proof is required that zoning would deliver more affordable homes and improve quality. The LGA has already warned that the proposals will [impact delivery in high value areas](#). Inclusionary approaches, as practised in the Netherlands and Germany, maintain a discretionary element, strong public intervention and clear direction for example on affordable housing requirements. These will be more successful in meeting the Government’s stated objectives than a purely market-led approach. The Government needs to set out in more detail how it will deliver mixed communities, reduce car reliance and improve environmental performance – and avoid the pitfalls of exclusionary zoning.

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