

German municipal councils vs town and parish councils in England

Summary: while both German and English town councils represent the tier of local government closest to the community, they operate under fundamentally different constitutional, financial, and structural realities. In short, German municipalities, often smaller than Truro, derive their powers from the German Constitution not from elected central government. Their autonomy cannot be over-ruled by the centre. This allows them control over planning, water supply and sewerage, energy and more. This paper focuses on planning, water supply and sewerage only.

Municipal power is embedded in the German Constitution

In Germany, like other federalist systems, municipalities derive their powers from the German constitution, not from the central government. This means central government cannot override municipal autonomy without first amending the constitution – and that is deliberately difficult to do (see annex). There is no similar democratic guardrail in the UK because we do not have a written codified constitution. Parliament can amend or remove English local government with ease. All that is needed is a simple Parliamentary majority of one. Parliamentary supremacy applies to any law, no matter how fundamental to our wellbeing and this makes our most important laws and institutions vulnerable to single-party rule based on narrow party-political considerations.

Comparative overview of municipal powers

Feature / Power	German Town Council (Gemeinde / Stadt)	English Town Council (Parish / Town level)
Primary Education	Yes (Builds and maintains school infrastructure, employs non-teaching staff). (Eurydice website)	No (Managed by Unitary/County authorities or Academy Trusts).
Social Services & Welfare	Yes (Administers local youth welfare, social housing, and support integration). (Youth wiki)	No (Responsibility of Principal/Unitary councils).

Local Planning & Zoning	High (Creates legally binding land-use plans, <i>Bebauungspläne</i>).	Advisory (Can create a <i>Neighbourhood Plan</i> , but the Principal Council makes final planning decisions).
Public Utilities	High (Often owns local energy, water, and transit networks via <i>Stadtwerke</i>).	Minimal (No control over utilities; limited to public clocks, allotments, or bus shelters).
Local Economy & Culture	Yes (Directly funds local theatres, museums, sports facilities, and tourism).	Yes, but small scale (Maintains local parks, community halls, and small community events).

This paper compares town planning and water utilities in Germany and in the UK, and the protective role of the German constitution in the exercise of municipal town power.

Spatial Planning and Local Services

German municipalities possess planning autonomy while English town and parish councils have no statutory planning authority

English parish councils

English town and parish councils have no statutory planning authority; their role is purely advisory (a statutory right to be consulted on planning applications) and involves drafting Neighbourhood Plans. These are subject to independent examination and local referendums. Such plans may or may not be adopted by the local authority..

German municipalities

On average, a German municipality covers a population of between 6,690 to 7,400 inhabitants. These have full statutory power to draft and adopt legally binding preparatory land-use plans on which more detailed development plans (*Bebauungsplan*) are based. They do so under the Federal and State government (the *Länder*) which must align with the Basic Law. The framework is as follows:

The Federal Framework:

- The municipality *must* publish the draft plan and allow citizens and public agencies (like environmental groups) to submit objections. If this step is skipped, the plan is legally void.

- The municipality must also choose from pre-established land categories. For example, if a municipal authority wants to transform a former agricultural field on its outskirts into a new residential neighbourhood, it must choose “general residential area” which includes houses, small shops, but no heavy industry.

The state (Länder) framework (state building code):

- dictates exactly how much open space must be left between a house and the property line to ensure light and fire safety
- It might also specify that for every apartment building with more than three units, a playground of a specific size must be built.

Within those rules, a municipal council decides exactly where the roads, parks, and houses go. If a private developer buys a plot in the designated land area, they cannot simply build whatever they want. They must apply for a building permit (*Baugenehmigung*). The local building authority compares the developer's architectural drafts directly against the municipal B-Plan, the state regulatory framework, and the federal regulatory framework. If the design complies with all three, the municipality is legally obligated to grant the permit.

A developer cannot challenge the B-Plan in court if they did not submit their objections during the official public participation phase

Water and waste water

English town and parish councils

There is no municipal control of water and waste water. The English system has completely decoupled these utility sectors from public control. Instead of income being recycled locally, profits from water and sewerage services go directly to global shareholders.

German municipalities

In Germany, the delivery of water supply and sewage treatment is dominated by public ownership, which is safeguarded under the constitutional principle of *Daseinsvorsorge* (public services of general interest). This entrenches political accountability and democratic oversight, ensuring that water management remains responsive to local needs rather than global shareholders.

Public-service legal structures account for [92% of wastewater treatment and 64% of water supply](#) across the country. Municipal ownership is the primary form of public ownership – even for town councils with populations as low as 6,000. Rather than a single uniform model, such ownership operates through a variety of organisational and corporate structures. The predominant forms of public ownership include:

1. Municipal Utilities (*Stadtwerke*)

For urban areas, the most common form of public ownership is the integration of water supply with other public services, such as energy, gas, and local transport. There are two advantages to adopting this model:

- **Minimal financial liability:** It limits the municipality's financial liability and separates utility operations from the core municipal budget. It also provides administrative flexibility to adapt to market conditions.
- **Cross-Subsidisation:** municipalities can offset the losses of deficit-running public services (like swimming pools and public transit) against the profits generated by lucrative municipal energy grids. However, it is important to note that water and wastewater rates themselves are strictly cost-recovery and cannot be used to cross-subsidise other municipal activities.

Municipalities also have the statutory power to mandate that all local properties connect to and use the public water and sewage systems. This establishes a secure, local public monopoly that guarantees the financial viability of the public utility.

2. Inter-Municipal Special-Purpose Associations (*Zweckverbände*)

In rural regions and smaller communities, the predominant form of public management is inter-municipal cooperation.

- **Pooling Resources:** Smaller towns and villages [often lack the technical expertise](#), personnel, or financial capacity to manage modern waterworks independently.
- **Legal Structure:** To overcome these limitations, they form public-law [cooperative associations \(*Zweckverbände*\)](#). These associations pool the regional water networks and wastewater treatment plants to achieve economies of scale.

3. Direct Government In-House Operations (*Eigenbetrieb*)

Some municipalities choose to operate their water and sewerage works directly as a department of the local administration with no separate legal personality from the municipality. While historically common, many municipalities have transitioned away from direct in-house departments toward independent municipal enterprises in order to limit municipal liability.

Annex: German Constitution (The Basic Law)

Germany's constitutional anchor

The difference between constitutionally awarded powers versus powers awarded under ordinary parliamentary legislation may seem like an obscure and technical point but the difference is vast. The only way an elected government in Germany can over-ride municipal powers is by first amending the Basic Law and that process is deliberately difficult to do. It requires a formal legislative act passed by a two-thirds majority in both houses of parliament, the Bundestag (lower house) and the Bundesrat (upper house).

Water is viewed as a public heritage that must be protected, prioritizing public health and environmental protection over competitive market dynamics. It is protected in Article 28, Paragraph 1 of the Basic Law (The German Constitution) which obliges every elected government to conform to the principles of a *"..social state governed by the rule of law..."*; in effect the state has an overarching, permanent duty of welfare and social protection.

While the Basic Law does not list the specific services the state must provide under this principle, federal and regional administrative laws interpret this "social state" requirement as a mandate to guarantee that all citizens have access to the basic services and necessities of life (Daseinsvorsorge). This includes clean water.

[Article 28. \[Land constitutions - Autonomy of municipalities\]](#)

1. The constitutional order in the Länder must conform to the principles of a republican, democratic and social state governed by the rule of law, within the meaning of this Basic Law. In each Land, county and municipality the people shall be represented by a body chosen in general, direct, free, equal and secret elections. In county and municipal elections, persons who possess citizenship in any member state of the European Community are also eligible to vote and to be elected in accord with European Community law. In municipalities a local assembly may take the place of an elected body.
2. Municipalities must be guaranteed the right to regulate all local affairs on their own responsibility, within the limits prescribed by the laws. Within the limits of their functions designated by a law, associations of municipalities shall also have the right of self-government according to the laws. The guarantee of self-government shall extend to the bases of financial autonomy; these bases shall include the right of municipalities to a source of tax revenues based upon economic ability and the right to establish the rates at which these sources shall be taxed.