

Background

The Government is currently consulting on proposals to reform the Planning System and we know these are alarming many Party members and supporters who wish to respond.

There are two consultations:

- the first included a controversial algorithm to calculate the number of houses each local authority will be required to build, and had a deadline of October 1st
- the second, longer and more "broad brush "consultation is the Planning for the Future White Paper, for which the **deadline is October 29th**.

This White Paper has received a swathe of critical response – much of it from the [Conservative Party](#). We hope that you will find our response of interest and help in drafting and submitting your own comments.

5th October 2020

Summary of NSGP response

We agree the planning system is over-complex, out of date and in need of reform, not providing many people with the homes they need and failing to value the climate, biodiversity or creating better communities.

However, this white paper takes the wrong approach and indeed makes the wrong assumptions about what is actually wrong with the system, failing to look properly at the evidence and to understand the reasons for failed delivery of housing. It is a missed opportunity to address climate change, rebuild ecosystems and to bring forward proven solutions to the housing crisis including investment in local authority house building. It seeks simple answers without understanding the complexity of the problems. It is not based on the evidence available. It should not have been presented as a White Paper as it is nowhere near ready for legislation - it is entirely lacking in the detail in key areas.

We are opposed to this over-centralised approach which will damage local democracy and take away local control. This in turn can damage the reputation and confidence of the standing of property developers and the planning system in the local community. The failures around infrastructure provision will have a detrimental effect on good neighbourhoods.

Climate change & Biodiversity

There is a fundamental failure to place carbon reduction front and centre. Alongside the 10% net gain in biodiversity, there should be an equivalent commitment to carbon reduction. Every development should not only be carbon neutral but should be generating more power than it uses. The current proposal to be 'carbon net zero-ready by 2050' is simply not good enough.

We have a massive existing housing stock which is some of the poorest in Europe for energy efficiency. Every new house built now which isn't carbon neutral adds to the problem of retrofitting these. It is much easier and cheaper to get it right at the construction stage.

Despite the recent Dept. of Transport consultation which stressed the need for public transport and decarbonising travel, this white paper is strangely silent on the all-important need for the planning system to ensure that development takes place only in sustainable places with a commitment to a major shift from car journeys to sustainable modes of transport. Planning policy has a crucial impact on tackling climate change by building the right homes in the right place, with minimal use of resources for travelling between the concepts of home and work. All new homes should be designed suitably for working from home.

The replacement system of environmental assessments is deeply concerning, as there is no detail or even sense of importance about making these work better. A clear straightforward means of assessment that assesses carbon impact and constraints including flooding and air quality issues is needed.

Whilst the commitment to Biodiversity net gain is welcomed, we need to go much further, acknowledging the need for policy to address our biodiversity emergency, and catastrophic species loss in which land use - and loss - plays a crucial role. The metrics for Biodiversity net gain need to ensure we fully recognise the importance of no loss of a particular species loss or a long-established habitat such as ancient woodlands or wetlands in assessment of areas for development (not just assuming that, for example, an ancient woodland can simply be 'replaced' elsewhere).

The design codes proposed seem to be centred around beauty at the expense of sustainability and takes a gimmicky approach. Tree-lined streets are welcome but are not enough. In any case they must be the right species in the right place that will survive rising temperatures and not damage pavements. Developers are making streets narrower to fit in more houses, are they really going to embrace the extra width and maintenance needs of trees.

Current local planning systems are one of the most effective ways for local authorities to tackle climate change. It is vital that the local design codes proposed are not restricted to dealing with appearance and 'beauty'. Beauty is important but in any case hard to legislate for and can lead to pastiche. Lack of beauty is important - but not the biggest crisis facing us.

Design codes - both local and national - must allow for meaningful action on sustainability including local requirements for carbon neutrality in buildings, biodiversity, construction methods, and for infrastructure planning that puts requirements for walking, cycling and proximity to public transport at the heart to create liveable communities. They should be genuinely locally driven - this will not be achieved through a centralised system reliant on 'machine reading' instead of human planners.

Climate change will not be solved by using a more attractive cladding.

On Community Infrastructure Levy (CIL) reform, the new levy should not only be based on the type of housing but on the carbon and environmental credentials of a building and site, effectively

offering a discount to those developers that build to the highest environmental standards and incentivising doing the right thing.

We are also concerned that the new infrastructure levy as proposed could be siphoned into non-infrastructure spending.

1. Bundling affordable housing in with infrastructure - when it isn't - could reduce the amount of affordable housing provided (an impact compounded by the proposed changes to the current system - see our consultation response to changes to the current planning system)
2. We are opposed to the suggestion that infrastructure levy could be used for other types of spend, unrelated to development and even 'council tax reduction' .
3. The collection of any levy must be enforced on the developers, it should not be impacted by their "profitability" or claims that unexpected site difficulties have increased costs, that is their risk.

Affordable housing spend must be prioritised, and infrastructure spending must be ring fenced for the infrastructure needed to enable development and especially infrastructure for low carbon living and increased biodiversity e.g.

- Grid upgrades
- Alignment and design of buildings to maximise passive gain and suitability for fitting renewables
- Provision of renewable energy including solar PV on all roofs as standard
- Rural and urban sustainable drainage
- Climate change adaptation
- Walking and cycle routes
- Public transport
- Schools, health & social care facilities
- Community & cultural space
- Local shops
- Parks and green spaces
- Allotments & other food growing space

If the new Infrastructure Levy is to be based on the value of the development, areas with low house values will lose out. This will work against 'levelling up'. There is some justification for higher levies where there are high house values, as the high cost of land will also mean higher costs for providing infrastructure (and affordable housing) but this needs to be balanced. Any formula should take into account income and affordability, not just be set at a flat rate across the county.

Even better to build, develop, improve housing where existing infrastructure exists, in areas which have previously seen a decline in investment, not on greenfield sites.

If reform goes ahead we must see:

- Local design codes need to be able to incorporate areas which are currently set through local planning policy. They should not be purely about appearance and 'beauty' but allow rules addressing the climate emergency e.g. carbon zero building, transport design, building waste and packaging and materials minimisation.
- The energy efficiency standards required at national level are much greater than those proposed - requiring generation - or at the very least fully zero carbon.
- Rigorous environmental assessment.
- Meaningful biodiversity net gain which recognises species loss and the nature emergency
- Infrastructure contributions should incentivise high environmental standards.
- The infrastructure levy ring fenced for infrastructure especially low carbon infrastructure and balanced to ensure levelling up not levelling down.
- There needs to be the option to include conditions around the process of construction e.g. traffic and site management.

Use of land and meeting everyone's housing needs

Failure to address the real barriers to house building - the need for land value tax, penalties for land-banking, resourcing of planning authorities and to invest in good quality council housing.

These proposals could lead to a proliferation of greenfield, out of town, car-driven developments which are loved by both the development industry and the land-selling industry because they maximise profits for both these industries. These dormitory housing estates are far less sustainable than brownfield development near existing transport and services and are often unpopular with communities as they take away precious open farmland and green space, as well as harbouring the potential for social isolation problems.

There is also clear evidence that the best way to bring about more and better housing of the kind needed by our communities, whilst at the same time stimulating our economy post Covid, is to make finance available to local authorities to build council housing and this white paper is a wasted opportunity to bring this about. We need to see a serious approach to affordable housing which also encompasses withdrawing the right to buy legislation. A proper definition of affordable housing is also required. The paper aims to provide at least as much affordable housing as under the current system but should be much more ambitious than that - particularly as regards affordable rented housing.

The white paper fails to address the failure of the house building industry to bring forward developments which have been given permission but which developers are failing to build out, instead 'land banking'.

There is a gap around ensuring continued investment in affordable homes provided by community land trusts.

Additionally, we are concerned that the problem of systematic cuts from government leading to under-resourcing of local authority planning departments is not acknowledged or addressed. On top of the existing deficit, undertaking wholesale planning reform will require additional resources.

There must be sufficient revenue to fund local authority planning departments to undertake the new requirements.

Additionally, to have any hope of success, substantial reform should not be taking place alongside a period of local government reorganisation (or 'devolution' as this is euphemistically being called) as the two things simply aren't possible alongside each other.

We believe that reforming the planning system as suggested will not get more houses built because land prices and the profit to be gained from getting planning permissions on cheap agricultural land are not being addressed.

The White Paper instead should seek:

- to reform the Land Compensation Act 1961
- enhanced CPO and land assembly powers for local authorities
- Incentives for developers to go ahead with construction when planning permission granted, and penalties when they don't (e.g. time limits, financial penalties)
- A carefully designed Land Value Tax
- Investment in council housing and stopping the Right to Buy policy - one counters the other
- Support for community land trusts
- Addressing the deficit in local authority planning services and additional resources to enable reform

Additionally, planning reform must not take place alongside local government reorganisation.

Zoning

Concerns about 'zoning' / centralisation; democracy/accountability, and about deliverability in practice.

In principle, there could be advantages to a more accessible and visual approach to local planning, if this genuinely allows communities to engage better at an earlier stage of the planning process. However, the proposals set out entirely lack detail about how this would be achieved and fail to address digital exclusion. Given the proposals were developed without reference to any expert in community involvement (or even a single local planning authority) it is not surprising that in practice the proposals are heavily skewed against a better deal for communities. The principles of localism appear to have been entirely abandoned. Localism needs to be embedded in the reforms, building on the work on Neighbourhood Planning that has been so successful in many parishes and towns around the country, an approach we strongly support.

We have concerns about the split into Growth/ Renewal/Protected zones and how this would work in practice. These are not sufficiently nuanced.

The proposals simply do not put our communities at the heart when it comes to decision making and they tilt the balance of the planning system further in favour of large-scale development and land-buying industries. The zones are too broad and do not allow for local circumstances.

Growth zones must first pass environmental assessments / sustainability tests and the current proposals do not provide a practical way for this to take place - as there is no allowance in the process for resources needed for these assessments to take place prior to allocation.

The lack of clarity on the future role of local authority planning committees is a gaping hole in the current reforms. Whilst the idea of streamlining decision making to help bring forward more homes more quickly is welcomed, this must not be at the expense of the role of local councillors, who know their areas better, in scrutinising development proposals at all stages of the planning process. There needs to be the opportunity for communities' specific comments on an actual project to be raised so they can be debated when deciding the outcome.

We are concerned that land seems to be viewed simply as a commodity, instead of a precious resource. Land - including open countryside which does not have an official designation such as an AONB - is fundamental to our lives. It is key to biodiversity, captures carbon, and is often hugely important to local residents. Additionally, smart land use for renewables, rewilding, food production etc. is key to a low-carbon future.

The importance of agricultural and food producing land must be remembered for food security.

Employment space is largely ignored which is a huge oversight. A joined up approach - that looks beyond an obsession with housing- also should consider the sustainability of future economies - with progressive design looking at '15 minute neighbourhoods' or '1 job per household' etc. Yet employment space barely features.

Waste and minerals planning should be reframed in a circular economy approach however seems to have also been forgotten in this White Paper so it is hard to comment.

Putting too much emphasis on a 'fixed' set of rules for development set at one particular moment in time means there is then no opportunity to respond through the planning system if local or national circumstances change - just as the pandemic should have taught us all about the need to retain the flexibility to adapt to changing times.

Conversely, if every single possible future scenario is planned for, design codes will become unworkably complex (as we see in other zoned areas e.g. the 1600 page New York design code) - entirely defeating the point of this reform.

This white paper is part of a centralising approach which reduces the power of local government, undermines democracy and which fails to recognise the importance of local communities and local areas who should be at the heart of effective placemaking.

We agree that the proposals would lead to greater complexity (despite the stated desire for simplifying the system) and especially the need for much greater clarity, made in the TCPA Initial Analysis. If reform goes ahead some of our key requirements are:

- The designation of Growth and Renewal areas MUST be co-designed with local residents;
- Growth zones must first pass environmental assessments / sustainability tests.
- There needs to be additional categories in the zoning system e.g. protected to recognise the importance of open countryside and other undeveloped land separate to land which is designated as AONB, National Parks, Green Belt etc.
- There need to be additional categories of land use which will enable local areas to set local targets, for example

- o Renewable energy generation
- o Food production
- o Rewilding and nature
- o Carbon sequestration
- Involving people better earlier in the process must not exclude the involvement of communities later in the process as populations, and both local and national circumstances change.
- Digitally excluded people need to be included.
- Reducing the role of democratically elected councillors in the process would mean less accountability and this must not happen.
- There needs to be consideration given to the transition period - how do local authorities move from the current system to a future one without a policy void?
- Ensuring proper resources for local authorities to implement the new system
 - o Recognising and compensating for historic under-resourcing
 - o Ensuring local authorities have both the time and the money to provide the evidence base - and the community engagement needed for co-design that would allow them to allocate 'growth' zones, otherwise they are just fantasy

Re Neighbourhood Plans

A continuing commitment to Neighbourhood Planning is welcome however more investment is required to support communities to meet both the technical requirements and enable community participation. This should particularly focus on NPs in urban areas - as the vast proportion of NPs have been developed to date in parished rural areas.

Guidance on housing supply in NP areas should be provided, with a margin for flexibility over or under those numbers to allow especially small sites to be developed. The greater % of CIL to be allocated to an area with a NP should be maintained. The status and weighting of NP's and their policies in relation to the adopted plan should be clarified as part of any reform.

One of the key attractions of a NP was to give communities more input into how any Infrastructure Levy was used. These proposals appear to strip that away completely. Instead it should be strengthened.

Public sector equality duty

It is disappointing that no equality impact assessment has been carried out. Despite the claim that the Government is "mindful of its responsibility" in relation to its legal duty under s.149 of the Equality Act 2010, and the fact this is described as a White Paper, there is no evidence that any steps have been taken to comply with this duty. The duty includes a "duty of inquiry" to find out the impact on groups with protected characteristics.

Disabled people face many more barriers than the general population, not just in terms of access to housing but also every aspect of their interface with the built environment. BAME populations may face additional barriers due to correlation with relative income profiles and to family size.

The PSED includes the particular duty to have due regard to the need to take steps to meet the needs of people with disabilities where they differ from the needs of those without disabilities. The White paper is silent on the integration of accessibility with development.

PSED also includes the duty to have due regard to the need to tackle prejudice and promote understanding. This may be particularly relevant, for instance, to the arrangements for affordable housing. Also with regard to Gypsy and Traveller provision - which in the White Paper has apparently been forgotten. There should be provision in every area.

The proposals should therefore not be taken forward without a full equality impact assessment.