



Briefing on Planning For the Future White Paper August 2020

The government has proposed making sweeping changes to the planning system, which would almost completely take away our say about planning. If the proposals go ahead, local plans will become little more than a colour-coded map and we will lose our voice about what gets built in our local area and how it is built. We hope this simplified overview of the 84 page document will help you prepare to take action.

Summary

The Consultation Paper states:

“Local Plans are a good foundation on which to base reform, as they provide a route for local requirements to be identified and assessed, a forum for political debate and for different views on the future of areas to be heard. The National Planning Policy Framework provides a clear basis for those matters that are best set in national policy”

In summary the Government thinks that all that debate and discussions on the future of local areas, currently conducted at a local level and implemented through “Local Plans”, should be replaced by policies set at a National level.

The Government does not say how much debate and discussion will there be when these policies at National level are set.

Local Plans

Under the current system, local planning authorities (LPAs) have to produce a Local Plan. It's like a Master Plan for development for its area

The LPAs take years to produce the Local Plan. They commission extensive research on the number of new homes that are likely to be needed in the next 10 years, the type of land that will be needed to generate jobs (considering changes in types of businesses and ways of working), how much land should be set aside for recreation (both indoor and outdoor) and what land should be protected from any development at all.

They carry out surveys and they consult specialist groups, such as conservation groups, environmental groups, developers and land owners. They also carry out assessments as to the impact of any proposals on the environment and what steps can be taken to mitigate these effects.

Currently, the process of producing Local Plans is highly democratic: Elected Councillors scrutinise the process of gathering information, the data that is obtained and the policies

that are proposed by their officers. In addition, LPAs hold many consultation meetings and invite comments from developers, land owners and environmental groups and other interest groups.

Duty to Co-operate

Currently, LPAs are required to co-operate with statutory bodies and neighbouring authorities (“Duty to Co-operate”). This means that the LPA must take into account the views of some of the most important bodies tasked with making our lives a better: Highway Authorities, The Environment Agency, English Heritage, the NHS Commissioning Board etc.

By Law, LPAs are not allowed to ignore representations made to them and must properly discuss and debate them at open public meetings.

Test of Soundness

Once a draft plan has been produced by the LPAs, the Plans are scrutinised at a Public Inquiry, led by an Inspector, appointed by the Secretary of State for Planning. Anyone can appear at the Inquiry, make representations and challenge the assumptions made by the LPAs and their proposals.

The object of the Inquiry is to ensure that the Local Plan is based on sound empirical evidence and policy considerations, so the Local Plan makes sense for that area and its neighbouring areas and is sustainable. This is called the test of “Soundness”.

Test of Sustainability

Every development that is approved will have only been approved because it is “sustainable”.

Changes

“The National Planning Policy Framework would become the primary source of policies for development management”

“We will set out general development management policies nationally, with a more focused role for Local Plans in identifying site and area-specific requirements, alongside locally-produced design codes”

Therefore, the Government wants to abolish the “Duty to Co-operate” ie. to abolish the requirement to involve Statutory Bodies with specialist functions when developing the Local Plan.

Government wants to abolish the test of “Soundness”. It wants to replace the test of “Soundness” with the test of “Sustainability”, which already exists.

New Local Plans

LPA should identify 3 types of land in their Local Plan

- Growth areas – “suitable for substantial development”
 - Would have outlined approval for development
- Renewal areas – “suitable for development”
 - Covers existing built areas
 - Presumption in favour of planning permission for specified uses, but planning application would still be needed
- Areas that protected – restricted development
 - Stringent development controls, set nationally and locally
 - So Government can remove protected status if it wants
 - Gardens would be included

Democratic participation

How much democratic participation will there be when “development management policies” are made nationally?

There are no details as what input Statutory Bodies charged with looking after our wellbeing, such as the Environment Agency, English Heritage, The Forestry Commission etc will have in the development of these policies

Who will develop these policies? Will it be a body comprising of representatives of from developer companies and Tory Party funders, or will it be a body of people representing environmental campaign groups. Will its affairs be public? Will it have an obligation to consult both at a National and local level? In short, how will the Government ensure that there is democratic input?

Private participation vs public

The Government seems to think that engagement with communities can be improved by making sure that the plans are “visual, map-based, standardised and based on the latest digital technology”.

The New Role for Local Plans:

Summary

*Primary focus of plan-making will be **identifying areas for development and protection.***

Local People and Statutory Bodies will no longer have the right to examine and question the proposals contained in the Local Plans.

They will have 6 weeks to submit a response when the Plan is published and there will be a limited word count. Then they may be heard by the Inspector but will not have the right to examine and cross examine on the proposals.

For smaller developments, all that a developer will have to do to get permission is to ensure that the development complies with the Local Authorities policies on design.

Detail

Environmental Impact Assessments

- LPA sets out suggestions as land for development, eg school, housing, roads
- Developer must submit a Planning Application
- Must be accompanied by an Environmental Impact Assessment (EIA).
 - Assesses the impact of the development on fauna, flora, historical value, pollution etc and relates to bio diversity and climate change etc.
 - Public document which everyone can comment on.

The Government wants to say it wants to “simplify” the provisions around Environmental Impact Assessments and it will publish a separate and more detailed consultation paper about this later on.

Streamlining the process

Currently, a Planning Application, for ALL developments, is advertised and anyone interested or affected are invited to comment. Also, LPAs are required to consult its environmental department, its housing and education departments, its neighbouring authorities and other relevant statutory bodies.

For large developments, there may even be a Public Inquiry, at which local people and bodies can fully examine and make representations on a proposal.

Since land identified in the Local Plan as “Growth Area” will automatically have planning permission, one would expect the Government to require similar consultation during the preparation of the Local Plan as there is currently when an application for planning permission is made.

Not so. Despite rhetoric in the Consultation Paper that LPAs should “radically and profoundly re-invent the ambition, depth and breadth with which they engage with communities as they consult on Local Plans” actually there will be minimal consultation.

The public will have just 6 weeks to explain how the plan should be changed and why. These responses will have a word count limit.

Then, over a period of 9 months, “A planning inspector appointed by the Secretary of State considers whether the three categories shown in the proposed Local Plan are “sustainable” as per the statutory test and accompanying national guidance and makes binding changes which are necessary to satisfy the test.

The plan-making authority and all those who submitted comments would have the right to be “heard” by the inspector (whether face to face, by video, phone or in writing – all at the

inspector's discretion). The inspector's report can, as relevant, simply state agreement with the whole or parts of the council's Statement of Reasons, and/or comments submitted by the public."

The "right to be heard" simply means that the Public may be "heard". This is a change from the current process whereby, the Public have a right to question, cross-examine and make representations on proposals by the Developer and/or LPAs.

Pillar 1

Proposal 1: LPAs should identify 3 types of land in their Local Plan

- Growth areas – “suitable for substantial development”
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Key accompanying text would set out suitable development uses and limitations like on height and density.

Proposal 2: Development management policies established at national scale

Primary focus of plan-making will be **identifying areas for development and protection**. Development management policies will be restricted, narrowed to area-specific requirements like broad height limits, scale and density limits, and this will be contained in National Planning Policy Framework.

“...there would be no provision for the inclusion of generic development management policies which simply repeat national policy within Local Plans, such as protections for listed buildings” (By generic they must mean specific and tailored!)

LPAs and neighbourhoods would play a crucial role in producing design guides and codes to ensure local character and form and appearance are maintained.

Proposal 3: Local plans should be subject to a single statutory “sustainable development” test – replacing existing test of soundness

- propose to abolish the Sustainability Appraisal system and develop a simplified process for assessing the environmental impact of plans
- Duty to Cooperate test would be removed
- slimmed down assessment of deliverability for the plan would be incorporated into the “sustainable development” test

Alternative options: don’t remove test of soundness, just make it easier to pass.

Proposal 4: A standard method for establishing housing requirement figures so enough land is available, or to allow densification, so housing targets are met.

There is often debate about development needs eg. How many homes, businesses and community facilities. Answer is to introduce a standard methods for setting housing requirements to save time. LPAs would allocate the land suitable for housing to meet the national requirement.

A streamlined development management process with automatic planning permission for schemes in line with plans

Proposal 5: Automatic planning permission for Growth Areas and pre-established development types

There will be no need to submit a further planning application to test whether the site can be approved if it's been identified for development in the Local Plan. Outline permission will be given and full permission given when the design and site-specific technical issues have been sorted out. If the development is in a Renewal area then redevelopments can be given automatic consent if they meet prior design and approval requirements.

Proposal 6: Decision making should be faster and more certain, with firm deadlines and make great use of technology

Set a time limit of 8-13 weeks for determining an application from validation to decision. Government wants to explore if some applications should be deemed "granted" if LPA goes over the deadline.

Ways to speed up the process:

- digitalisation
- automate routine processes
- shorter applications – less information required
- use more data so it can be monitored at national level
- digital template for planning notices
- standardise supporting information

A new interactive, web-based map standard for planning documents

Proposal 7: Local Plans should be visual and map-based, standardised, based on the latest digital technology, and supported by a new template.

A streamlined, more engaging plan-making process

Proposal 8: LPAs to meet a statutory timetable for key stages of planning process, sanctions for those who fail

They want to change a process that can take over 3 years to 30 months. With 5 stages of "public engagement":

1. (6 months) LPAs “calls for” suggestions for areas under 3 categories, Growth, Renewal and
2. (12 months) LPAs draw up Local Plan
3. (6 weeks) LPA to
 - a. Submit plan with statement of reasons
 - b. Publicise the plan for public comment
4. (9 months) A planning inspector considered whether the 3 areas are “sustainable” as per statutory test. “right to be heard”
5. (6 weeks) Local Plan map finalised.

Alternative options: right to be heard could be made at discretion of the inspector. Miss out stage 4 and just audit a few plans every year to check they meet “sustainability test”.

Proposal 9: Neighbourhood Plans for community input, supported by digital tools

Neighbourhood plans were introduced in 2011 and have been popular. Considering whether very small areas, like a street, could set their own rules for the type of development they want to see?

Speeding up the delivery of development

Proposal 10: More emphasis on build out through planning

Policy which seeks to include a greater variety of building types and developers to encourage faster build out.

Pillar 2

Proposal 11: The Visual Dimension

Local communities will have a say on what they like about the design. This will be given weight when developing Local Plans.

Proposal 12: Chief Officer for Design

Set up a body within local authority so that there is a chief officer for design and place-making.

Proposal 13: Home England

Consult Home England on design quality and environmental standards so their objectives can be incorporate into developments.

Proposal 14: Incentivise and accelerate development which reflects local character and preferences

- 1) Schemes that comply with local design guides and codes will have an advantage in that they are more likely to be approved.
- 2) Have local authorities create “masterplans” and “site-specific codes” where Growth areas have been identified as a condition of the permission in principle. These will basically be Ground Rules the developers must follow eg. For site layout
- 3) Widen and change the nature of permitted developments, so similar developments can be approved easily and quickly, to support “gentle intensification”. Want to allow “pre-approval” of popular and replicable designs through permitted development.

To this end, develop “form-based development types” which allow the redevelopment of existing residential buildings if something similar has been done before.

Therefore, proposing an increase of population density and “pattern book” developments but with an emphasis on maintaining character and design. Prior approval would only be needed for aspect like regarding flood risk and safe access.

(But they need to test this proposal first to see if it works.)

Proposal 15: Doesn't really say anything that I can understand.

Proposal 16: Design a quicker simpler framework for assessing environmental impacts

Current frameworks for assessing environmental considerations include Strategic Environmental Assessment, Sustainability Appraisal, and Environmental Impact Assessment – which leads to duplication of effort and delays.

- 1) Environmental aspects of a plan or project should be considered early in the process. Digital data made available for stakeholders.
- 2) Requirements for environmental assessment and mitigation need to be consolidated and made simpler.
- 3) Issues of environmental improvement plus legal environmental protection issues will be addressed in another consultation.

Proposal 17: Conserving and enhancing our historic buildings and areas

Proposal 18: Improvements in energy efficiency standards for buildings

From 2025 new homes are expected to produce 75-80% lower co2 emissions compared to current levels. Local authorities will be expected to enforce energy efficiency standards.

Pillar 3: Planning for infrastructure and connected places

The Community Infrastructure Levy

At present there are 2 discretionary routes for LPAs to secure developer contributions:

- planning obligations (sec 106)

- Negotiated with developers. Can be inconsistent and cause delays
- Community Infrastructure Levy
 - Fixed charge, levied on the area of the new development, for the provision of infrastructure, established by assessments by the LPA

Securing infrastructure and affordable housing alongside new development should be:

- Responsive to local needs
- Transparent so it's clear what infrastructure will be delivered
- Consistent and simplified
- Buoyant, so when prices go up both local community and developers benefit.

Value capture: Government could seek developer contributions to capture an increase in the value of the land that comes when planning permission is granted. This would depend on a range of factors including the development value, existing value of the land and tax structure (capital gains), but could be a good source of income for infrastructure.

Proposals: Consolidated Infrastructure levy

Proposal 19: Reform system of planning obligations to one "Infrastructure levy"

This would be based on a flat-rate, value-based charge, set nationally.

- Charged on final value of development or assessment of sale value at the point planning permission is granted (rather than before as currently)
- Levied at point of occupation
- Include value-based minimum threshold. So, levy would only be charged on the proportion of the value that exceeds the threshold
- Provide great certainty

Would allow local authorities to borrow against the Infrastructure Levy, to support infrastructure delivery in their area.

Alternative option: The infrastructure levy could remain optional and would be set by individual local authorities or it could be set nationally.

The theory is that it would remove the "viability risk" because if the value of the development drops below the threshold they don't have to pay the local authority anything.

Proposal 20: Infrastructure levy through changes of use

When the use of the land changes and/or planning permission is needed, eg from office to residential, then the infrastructure levy could be charged, even when there is not strictly any additional floorspace to the development.

Proposal 21: Reformed Infrastructure Levy should deliver affordable housing provision

Developer contributions should deliver on-site affordable housing.

Abolish Section 106/planning obligations so that LPAs use funds raised through levy to secure affordable housing. They would do this through in-kind delivery on-site. So, the difference between the price the affordable housing provider buying the unit and the market price would be offset by the levy. Therefore, developers have an incentive to build on-site affordable housing.

This puts LPAs at risk because the levy is not guaranteed but this can be mitigated through policy design. Eg. LPAs can market units at market price if there is a market fall and the levy cannot cover the value secured through in-kind contributions. OR when this occurs, the developer has no right to reclaim overpayments.

Must also incentivize high quality build for in-kind homes. LPAs could revert back to asking for cash contributions for the levy if no-one wants to buy the homes because they are poor quality. They could also accept land adjacent to the site as payment in-kind for the Levy in order to then provide affordable housing.

Alternative option: Introduce further requirements for the delivery of affordable housing through a "first refusal" right. Where LPAs or affordable housing provider could buy a set proportion of units at a discounted price, broadly equivalent to build costs. The proportion would be set nationally and the developer would have discretion over which units were sold in this way.

Proposal 22: More freedom to LPAs on how they spend the infrastructure levy

Currently, the Neighbourhood Share of the Community Infrastructure Levy ensures that 25% is spent in the area of the development. Want to enhance community engagement over how this money is spent, especially using digital innovation. Also want to give local authorities more discretion on how the funds raised through the levy are spent.