

Planning for the Future – Government Consultation on Planning Reforms August 2020

Introduction

The Government has published a white paper called “Planning for the Future¹” a consultation paper on proposed reforms to the planning system. It is aimed at streamlining and modernising the planning process with a new focus on design and sustainability to ensure that more land is available for development where it is needed. The consultation closes on 29th October 2020.

The Government have also published a further document on short-term measures which includes changes to the standard method for assessing local housing. The consultation for this document closes on the 1st October 2020.

This briefing note sets out a summary of the key proposals from each of these proposals.

Planning for the Future

The Government considers that reforms to the planning system are needed to streamline the system and ensure more houses are built in the right places. The consultation paper proposes three pillars; pillar one is around planning for development; pillar two concerns planning for beautiful and sustainable places and pillar three relates to planning for infrastructure.

Pillar One – Planning for Development

The proposals in this section are designed to simplify, shorten and speed-up the plan-making system and give more certainty to planning decisions. The changes include a shorter plan-making process and decision-making timetables and a transition to a zonal system with areas for growth, renewal and protection.

Within this section there are ten key proposals which are outlined below.

1. Purpose of Local Plan simplified.

The role of a local plan should be to identify different types of land; the Government are proposing three types of land – growth, renewal and protected.

Growth is land identified for substantial development (the term ‘substantial’ is to be defined by policy) and could be new settlements, urban extensions or areas for redevelopment. These will be automatically granted outline planning permission upon adoption of the Local Plan. Infrastructure required for sites being proposed must be capable of coming forward during the plan period.

¹ <https://www.gov.uk/government/consultations/planning-for-the-future>

Renewal is land within existing built up areas where small scale development would be appropriate, this could be infill development or development in town centres or rural areas. A statutory presumption in favour of development granted for specific, suitable uses in these areas.

Protected areas are those places of environmental or cultural character that would warrant more stringent development controls, such as AONB, Conservation Areas, Local Wildlife Sites, areas of flood risk or important green spaces. These areas would also include open countryside not designated as growth or renewal. Within these protected areas development proposals would need to apply for planning permission which would be determined using nationally set policies in the NPPF.

Any divergence from the proposals set out in the local plan would require a specific planning application. The Government considers that this would be an exception rather than the norm.

All these areas would be shown on an interactive web-based map including the data and policies along with the types of development considered suitable in the growth and renewal areas, with cross reference to the NPPF.

2. Development management policies would be set nationally

The NPPF will contain a set of development management policies. The local plan will be concerned with specific standards and limited to site or area-specific requirements such as height, density and scale. Alongside neighbourhood plans focusing on design guides and codes to reflect local character, form and appearance of development.

The consultation paper states that these plans should be in a format that can be machine-read so that development can be automatically screened to speed up applications.

3. Local plans will be subject to a single “sustainable development” test

This test would replace ‘tests of soundness’ and consider whether the plan contributes to sustainable development including an assessment of deliverability, with this simpler test the Government anticipates that fewer assessments would be required thereby simplifying the process.

Specifically, Sustainability Appraisal would be replaced by a simplified process to consider the environmental impacts of the plan and the Duty to Co-operate removed but the Government will give consideration to how strategic cross-boundary matters will be managed.

4. Standard method for calculating the housing requirement

The paper proposes a new methodology for setting the housing requirement to ensure enough land is available where affordability is worst and taking into account

land constraints, brownfield land opportunities, size of existing urban settlements and non-residential land requirements.

This new approach would ensure that sufficient land for housing is planned for and there would be certainty about its deliverability so the requirement to demonstrate a five-year supply of land would be unnecessary. The proposals include retention of the Housing Delivery Test and presumption in favour of development.

5. Automatic outline planning permission for Growth areas

For those areas identified in the local plan as being suitable for growth outline planning permission for the principle of development would be granted on adoption of the said plan. Full planning permission would be granted through a streamlined, faster consent routes focussing on good design and site-specific technical issues. The paper proposes three routes; reformed reserved matters, Local Development Order (prepared by the local authority and linked to a master plan or design code) or for exceptionally large sites a Development Consent Order (determined under the Nationally Significant Infrastructure Projects regime).

In areas identified for renewal there is a general presumption in favour of development established in legislation. For pre-specified forms of development planning permission is automatically granted if the scheme meets design and other prior approval requirements. Other types of development would require permission to be sought through a faster process focusing on local plan descriptions and the NPPF. Or permission could be granted as a Local Development Order or Neighbourhood Development Order.

Development proposals in protected areas would be subject to a planning approval process and tested against the criteria in the NPPF.

6. Decision-making should be faster, offer certainty and use technology

As part of the proposals time limits for the determination of applications will be a firm deadline and the planning fee would be automatically refunded if the authority fail to determine it in time. Greater digitisation and software will automate routine processes alongside standard application forms and data-sets and templates.

Where the principle of development has been established delegation of detailed planning decisions to planning officers. Call-in by the Secretary of State and the right to appeal remain. Planning conditions covering common issues set nationally.

7. Local plans should be visual, map-based and standardised

Interactive, map-based local plans will be built upon data standards and digital principles. The evidence expected to support local plans will be simplified. It is envisaged that this will improve engagement in the process.

8. Statutory timetable for key stages of the process

Planning for the Future proposes to legislate the timetable for the local plan process which local authorities and the Planning Inspectorate will be required to follow. A five-stage process is proposed with prescribed timescales and strict enforcement and penalties for non-compliance.

Stage 1 (six months) involves a ‘call for areas’ of growth, renewal or protection to engage the public on where development should take place and what it should look like.

Stage 2 (twelve months) the local authority prepares the plan including any necessary evidence to inform and justify the plan. At this stage the Government is proposing that ‘high risk’ authorities (these are not defined) would receive advisory visits from the Planning Inspectorate to keep the process on-track.

Stage 3 (six weeks) the plan is submitted to the Secretary of State for examination whilst at the same time as publicising the plan for comment (strict word limit for responses).

Stage 4 (nine months) consists of the examination by the Planning Inspectorate into the sustainability of the areas proposed in the plan, taking into account the statutory test and national guidance. The right to be heard remains for respondents and the local authority but the method for this will be determined by the appointed Planning Inspector.

Stage 5 (six weeks) the plan is finalised and comes into force.

It is anticipated that these reforms will simplify and shorten the plan-making process. There is an expectation that local authorities should adopt a new local plan by a specified date, 30 months from the date the legislation is brought into force.

9. Neighbourhood Plans retained as important means of community input

Whilst the proposals recognise the importance of neighbourhood plans, their role is to be revised, although detail is not contained in the paper at present.

10. Stronger emphasis on build out through planning

Proposals will be brought forward to incentivise faster delivery, but master plans and design codes for substantial development sites should include a variety of development types to allow more phases to come forward together.

Pillar 2 – Planning for Beautiful and Sustainable Places

The proposals in this section are designed to create beautiful places built on community preferences, protect and enhance the environment and combat climate change. A National Model Design Code will be published to supplement the National Design Guide, which will set out more detailed parameters for development including arrangement and proportion of streets and urban blocks, positioning and hierarchy of

public spaces, successful parking arrangements, placement of street trees and high quality cycling and walking provision. A revised and consolidated Manual for Streets will be published.

Within this section there are eight key proposals which are outlined below.

11. Design expectations should be visual and predictable, design guidance and codes prepared locally with community involvement

These binding design guidance and codes will be created or produced with local communities either by the local authority as part of the local plan process, by a neighbourhood planning group or by an applicant. For the design guidance or code to be binding 'effective community involvement' needs to be evidenced.

12. Creation of a body to support deliver of local design codes and a chief officer for design and placemaking in local authorities

Government is exploring the options for establishing a new expert body to assist in the effective use of design guidance and codes as well as monitoring. The paper also states that proposals for improving the resourcing of planning departments will be brought forward later this year. The paper proposes that each authority appoints a chief officer for design and place-making to provide vision and integration across council functions.

13. Consider how Homes England's strategic objectives can give greater emphasis to delivering beautiful places

This proposal relates to the work of Homes England.

14. Fast-track for beauty to incentivise and accelerate high quality development reflecting local character and preferences

The NPPF will provide a positive advantage and greater certainty of approval for schemes which comply with local design guides and codes. In Growth areas legislation will require a master plan and site-specific code are agreed as a condition of the permission in principle granted through the plan-making process.

Further changes to permitted development in Renewal areas to allow for standard building types that reflect local design preferences. Prior approval would remain for aspects of design to ensure that the development is right for its context as well as other planning considerations such as flood risk and access.

15. Mitigating and adapting to climate change and maximising environmental benefits

The NPPF will be reformed to provide opportunities to provide local policies to identify important views, opportunities to improve public access or places where renewable energy or woodland can be accommodated. This includes a commitment to make all new streets tree-lined.

16. A quicker, simpler framework for assessing environment impacts and enhancement opportunities

The proposals include making the environmental assessment process faster to speed up delivery with the environmental aspects of a plan or project considered early in the process. It is anticipated that there will be a reduction in the need for site-specific surveys due to better availability of national data. A new environmental assessment system is being considered by the Government and will form a consultation in the Autumn.

17. Conserving and enhancing historic buildings and areas

The Government envisage that local plans clearly identify the location of internationally, nationally and locally designated heritage assets as well as locally important features. It is recognised that many historic buildings will need to adapt to changing uses and the paper wishes to see more of these buildings have energy efficiency measures to support zero carbon objectives. The planning framework for listed buildings and conservation areas will be reviewed and updated to ensure their significance is conserved while allowing sympathetic changes.

18. Facilitate ambitious improvements in energy efficiency standards for buildings to deliver net-zero by 2050

The proposals commit to reviewing and speeding up the implementation timetable for the Future Homes standard and setting of national standards through building regulations.

Pillar 3 – Planning for Infrastructure and Connected Places

There are currently two broad routes for local planning authorities to secure developer contributions – planning obligations through Section 106 agreements (S106) and the Community Infrastructure Levy (CIL). S106 planning obligations are negotiated with developers and spent in the immediate vicinity of the development. In contrast, the CIL is a fixed charge, levied on the area (floorspace) of new development, and secures infrastructure that addresses the cumulative impact of development in an area.

Within this section there are four key proposals which are outlined below.

19. Community Infrastructure Levy should be reformed to charge a fixed proportion of development value above a threshold, with a mandatory nationally-set rate

It is proposed that the existing S106 and CIL regimes are replaced with a new, consolidated 'Infrastructure Levy'. This would be a value-based flat-rate charge across all use classes, set nationally, at either a single rate or at area-specific rates. It is suggested this would address issues in the current system as it would:

- be charged on the final value of a development based on the applicable rate at the point planning permission is granted;
- be levied at point of occupation, with prevention of occupation being a potential sanction for non-payment;

- include a value-based minimum threshold below which the levy is not charged, to prevent low viability development becoming unviable; and
- provide greater certainty about the level of developer contributions expected alongside new development.

Revenues would continue to be collected and spent locally, and to better support the timely delivery of infrastructure, local authorities would be allowed to borrow against Infrastructure Levy revenues so that they could forward fund infrastructure.

20. Scope of the Infrastructure Levy extended to capture changes of use through permitted development rights

The scope of the Infrastructure Levy would capture changes of use which require planning permission, even where there is no additional floorspace, and for some permitted development rights including office to residential conversions and new demolition and rebuild permitted development rights. This approach would increase the levy base, and would allow these developments to better contribute to infrastructure delivery and making development acceptable to the community. However, it is proposed the exemption of self and custom-build development from the Infrastructure Levy will be maintained.

21. Reformed Infrastructure Levy should deliver affordable housing provision

Affordable housing provision is currently secured via S106's, but the CIL cannot be spent on it. With S106's removed, it is proposed that authorities would be able to use funds raised through the Infrastructure Levy to secure affordable housing. This could be secured through in-kind delivery on-site, which could be made mandatory where an authority has a requirement, capability and wishes to do so.

Any risks associated with this, would be fully addressed through policy design. To ensure developers are not rewarded for low-standard homes under the Levy, local authorities could have an option to revert back to cash contributions if no provider was willing to buy the homes due to their poor quality. Local authorities could also accept Infrastructure Levy payments in the form of land within or adjacent to a site. Through borrowing against further Infrastructure Levy receipts, other sources of funding, or in partnership with affordable housing providers, they could then build affordable homes, enabling delivery at pace.

22. More freedom given to local authorities over how they spend the Infrastructure Levy

Currently, the Neighbourhood Share of CIL ensures that up to 25 per cent of the levy is transferred to parish councils and spent on priorities in the area that development occurred. There are fewer restrictions on how this funding is spent. It is proposed that this approach to the Neighbourhood Share would be kept.

It is proposed that local authorities are given more flexibility around spending, allowing them to spend receipts on their policy priorities, once core infrastructure

obligations have been met – this could include improving services or reducing council tax. Under this approach, it may be necessary to consider ring-fencing a certain amount of Levy funding for affordable housing to ensure that affordable housing continues to be delivered on-site at current levels (or higher). Alternatively, the permitted uses of the Levy could remain focused on infrastructure and affordable housing, as they broadly are at present. Local authorities would continue to identify the right balance between these to meet local needs, as they currently do.

The Government have also set out in the paper how these reforms will be delivered without causing delay to currently planned development. This includes making sure recently adopted plans, existing permission and associated planning obligations continue to be implemented.

23. Develop a comprehensive resource and skills strategy for the planning sector

The cost of operating the new planning system should be principally funded by the beneficiaries of planning gain – landowners and developers – rather than the national or local taxpayer.

Planning fees should continue to be set on a national basis and cover at least the full cost of processing the application type based on clear national benchmarking. If a new approach to development contributions is implemented, a small proportion of the income should be earmarked to local planning authorities to cover their overall planning costs, including the preparation and review of Local Plans and design codes and enforcement activities.

Local planning authorities should be subject to a new performance framework which ensures continuous improvement across all planning functions from Local Plans to decision-making and enforcement – and enables early intervention if problems emerge with individual authorities. The Planning Inspectorate and statutory consultees should become more self-financing through new charging mechanisms and be subject to new performance targets to improve their performance.

Reform should be accompanied by a significant enhancement in digital and geospatial capability and capacity across the planning sector to support high-quality new digital Local Plans and digitally enabled decision-making.

It is recognised that different local planning authorities face different pressures and issues, and it will be important to develop a resourcing and skills framework which works for all authorities across the country.

24. Strengthen enforcement powers and sanctions

Government will review and strengthen the existing planning enforcement powers and sanctions available to local planning authorities to ensure they support the new planning system, and will introduce more powers to address intentional unauthorised development, consider higher fines, and look to ways of supporting more enforcement activity.

Shorter term measures proposed

At the same time as publishing this planning paper, the Government have also published a consultation on four shorter-term but potentially far-reaching measures to improve the effectiveness of the current planning system. This section of the briefing note summarises those four measures.

Revised Standard methodology

The Government proposes to replace the Standard Method for Local Housing Need with a nationally-set method for setting local housing requirement, which will in effect distribute the nationally required 300,000 homes per annum across local authorities, taking into account constraints and other factors including targeting more homes into areas where they are least affordable.

This methodology will apply in advance of the reform of the planning system. The methodology will therefore apply to any existing Local Plan preparation or has the potential to become significant in decision making when existing plans can be deemed out of date. This new standard method provides an interim measure, and it is envisaged that a different figure may emerge from the broader reforms.

The proposals set out a new calculation that introduces a new element into the standard method, a percentage of existing housing stock levels, which takes into account the number of homes that are already in an area as part of a blended approach to calculating need. This is proposed to ensure that diverse housing needs are taken into account instead of solely relying on household projections.

The Government also proposes to introduce an affordability adjustment that takes into account changes over time, in addition to the existing approach of considering absolute affordability. This will increase the overall emphasis on affordability in the formula to ensure that the revised standard method is more responsive to changing local circumstances, so that homes are planned for where they are least affordable. In theory therefore where affordability improves, this will be reflected by lower need for housing being identified.

For Cornwall, this new methodology means a requirement to provide around 4,000 homes per annum (the number will change with subsequent data releases) which is significantly more than the existing standard methodology. Our Local Plan figure of 2,625 continues to apply until that plan is 5 years old.

First Homes

First Homes are a discounted sale affordable housing product and were introduced through consultation in 2019.

The Government intends to set out in policy that a minimum of 25% of all affordable housing units secured through developer contributions should be First Homes. This will be a national threshold, set out in planning policy and will replace a proportion of affordable housing available for low cost sale as set out in the Local Plan. The minimum discount for First Homes should be 30% from market price which will be set by an independent registered valuer. Local authorities will have discretion to increase the discount to 40% or 50% but this can only be done where it can be evidenced through a local plan making process.

First Homes will be exempt from CIL and additional policy will be prepared at a national level to specify how the discount rate will be set alongside other low cost purchase affordable housing products to avoid an overall loss of discount across the tenures. This policy will also specify a process for calculating cash equivalents for off-site provision of First Homes.

A First Homes exception sites policy is also proposed outside of designated rural areas to replace the existing entry-level exception sites policy. This will specify that the affordable homes delivered should be First Homes for local, first-time buyers with flexibility to allow a small proportion of other affordable homes to be delivered on these sites where there is significant identified local need as well as a small proportion of market homes where this would be necessary to ensure the viability of the site overall.

Temporary increase in affordable housing threshold

It is proposed to raise the small sites threshold for affordable housing in urban areas from 10 to either 40 or 50 new homes to support small builders to bring forward sites. This is proposed for an initial period of 18 months in which the impact on site delivery will be monitored. Policy changes will be made to national guidance, which will also set out provisions to prevent artificial subdivision or limiting of numbers on sites to limit affordable housing requirements.

This proposal would not apply to designated rural sites or rural exception sites, but it will reduce affordable housing provision in urban areas.

Permission in Principle

Introduced in 2017, Permission in Principle is a route to planning permission for housing-led minor development on small sites (fewer than 10 dwellings). Local authorities can grant Permission in Principle to suitable sites allocated on the Brownfield Register. The consent has two stages; stage one – establishes whether the site is suitable in principle for development and grants a Permission in Principle for five years; and stage two ‘technical details consent’ assesses the detailed

development proposals and conditions can be set. These two stages, once completed, equate to full planning permission for a site.

Recognising that proposals in Planning for the Future with regard to automatic permission for sites identified in the local plan, will take time to implement, the Government is proposing to extend the current Permission in Principle framework by removing the current development restriction to enable a wider range of sites to secure permission in this manner. It is also proposed that this expanded Permission in Principle route would not set a limit for commercial development space.

The Government states that the existing restriction relating to EIA and Habitat Regulations will remain reflecting the fact that Permission in Principle is granted on the basis of limited technical information and there is not sufficient environmental information to accurately assess the impacts at the point of decision.

It is anticipated that the process for making a Permission in Principle application for a major development would follow the same procedures, where the relevant matters for consideration are location, land use and the amount of development. The consultation also sets out options for planning fees in relation to Permission in Principle.

The consultation also proposes that all Permission in Principle consents that are on brownfield land should automatically be recorded on Part 2 of the Brownfield Land Register.