

The Future of the Planning System in England

MHCLG Report June 2021

Date: June 2021

Ref No: 355

Introduction

On the 10th June 2021, the Ministry of Housing, Communities and Local Government Committee published a Report titled *'The future of the planning system in England'*, a response to the Government's proposed reforms to the planning system announced in *The Future of the Planning System in England White Paper*, August 2020.

The Report considers the Government's proposed reforms to the planning system, seeks to build on their predecessor's committee report into land value capture, and addresses the concerns regarding the omission of various important issues relating to housing and non-housing elements of the planning system.

The Government's Three Areas Proposal

A key part of the Government's three areas proposal is that every local authority, through its Local Plan, would allocate land into three areas: growth, renewal, and protected areas. These are defined as:

- Growth areas are places "suitable for substantial development", including "land suitable for comprehensive development, including new settlements and urban extension sites"
- Renewal areas are places "suitable for development", including "gentle densification and infill of residential areas, development in town centres, and development in rural areas that is not annotated as growth or protected areas, such as small sites within or on the edge of villages"
- Protected areas are places "which, as a result of their particular environmental and/or cultural characteristics, would justify more stringent development controls to ensure sustainability". These are identified as including the Green Belt, Areas of Outstanding Natural Beauty (AONBs), Conservation Areas, Local Wildlife Sites, areas of significant flood risk and important areas of green space

Whilst there was some support for the three areas proposal, the MHCLG report notes that the majority of submissions expressed opposition to the proposals. The

views expressed included that the approach would be undemocratic and highly disruptive and would not reflect the complexity of local plan making and allocation. Representations also suggested that the zoning would not address the issues of housing shortage and high house prices, and that the lack of detail accompanying the proposals would be an issue.

The Committee concluded that the lack of detail in the approach has made it difficult to assess how it would function and suggest that there would be problems with the three-designation proposal. These included its potential unsuitability in urban areas; doubts over whether Local Plans will have the level of detail for developers to know whether their proposals will qualify for permission in principle and thus avoid the need to use planning permission procedures; the uncertainty over the purposes of renewal areas; and the level of protection to be afforded in protected areas.

Overall, the Committee were not persuaded that the Government's zoning-based approach will produce a quicker, cheaper, and more democratic planning system.

Local Plan Reform

The Government's proposal of having an up-to-date Local Plan to be a statutory requirement and shortening and focusing Local Plans was welcomed. Ultimately, however, the Report notes, *"The Government should extend the 30-month timeframe for the initial production of Local Plans as it is too short for creating new plans from scratch."*

Instead, consideration should be given towards a staggered roll-out of new Local Plans across the country, whereby it should be permissible and straightforward to undertake quick updates of Local Plans every two years, including appropriate time for public consultation. To achieve this, the Committee requested the Government clarify how such needs can be met and what resources will be applied to local authorities to enable them to achieve these timescales.

Clarification was also sought on how the Government will promote greater involvement by the public in Local Plans.

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The view was also expressed that the *“public should be consulted about a draft version of the Local Plan before, not concurrently with, its submission to the Secretary of State.”*

Neighbourhood Planning

The Committee expressed that ahead of the Planning Bill, the Government

- “must clarify the role and status of neighbourhood plans in the proposed system”,
- “how to make neighbourhood planning more relevant to local people” and
- “how to ensure residents feel empowered to both contribute to and own the plan.”

Strategic Infrastructure and the Duty to Cooperate
The Committee advised that the Government should only abolish the duty to cooperate when *“more effective mechanisms have been put in place to ensure cooperation.”* Lessons should be applied from successful strategic plans devised by local authorities in certain parts of the country in *“devising more effective mechanisms for strategic planning.”*

The Housing Formula

Attempts by central Government to introduce targets for housing output in local areas have long proved contentious. In July 2018, the current method for determining housing need, called the ‘Standard Method’, was introduced. The housing need calculated by the standard method, feeds into the housing requirement for an area that is agreed to in Local Plans, joint and strategic plans.

In August 2020, following criticisms of the household projection figures, the Government outlined its proposed reforms to the housing formula—**which is referred as the “proposed formula”**. Further proposed revisions were published in December 2020 by the Government.

The representations fell into three categories:

- **those who supported the Government’s proposed formula,**
- **those who approved of the principle of a standard method formula but dissented from the proposed formula, and**
- **those who disagreed with the method and wanted decisions on housing need determined locally.**

The Committee supported the principle of using a standard method to assess housing need that applies

across the country. It also acknowledged the criticism of the current standard method for not promoting levelling up by reducing the targets for future homes below the numbers currently being delivered. It also does not directly consider brownfield sites nor environmental and other constraints on developable land in a particular area.

The Committee supported the Government’s abandonment of its proposed formula for determining housing need. In addition, the Committee made further recommendations for assessing need, including allowing local authorities to commission their own assessments should they disagree with nationally set figures.

Land Capture and the Funding of Infrastructure

The Government has proposed replacing the current Section 106 (S106) and Community Infrastructure Levy (CIL) with a National Infrastructure Levy (NIL), *“there is a case for replacing the latter, but not the former. Preserving Section 106 will protect against a possible loss of affordable housing.”* The Government is also advised to reconsider the proposals of the 2017 review of the CIL as an alternative to their potential NIL initiative.

The MHCLG advised that if the Government does proceed with its NIL proposal, a localised rate should be set reflecting local land values, clarification provided on who will set these localised rates, and whether they will differ by local authority or some other sub-national area. The MHCLG also recommended leaving the Mayoral Infrastructure Levies in place.

Public Engagement

A crucial element of the planning system is the involvement of members of the public, and this has been a mainstay of the system since 1947. Although the Government does not routinely collect data on public involvement in the planning system, the White Paper has suggested that the current system *‘allows a small minority of voices to shape outcomes’*, which has resulted in members of the public feeling disenchanting by the planning system. Although numerous submissions argued that the dominance of unrepresentative minorities in public and democratic life is not restricted to the planning process, the Committee agreed that public engagement among under-represented groups needs to be deepened.

To achieve this, the Government proposed in the draft White Paper, to





shift public engagement from individual planning applications to the Local Plan stage.

Furthermore, the Government stated that the opportunity for consultation at the planning application stage will be streamlined since this adds delay to the process and allows a small minority of voices to shape outcomes. A range of views were received in response, with some arguments suggesting that community engagement at the local plan stage should be a basis to move plans forward, whilst others considered the proposals likely to reduce public involvement through abolishing the ability of people to comment on individual planning applications in growth areas and other extensions to permission in principle.

To ensure that public engagement throughout the planning process is facilitated, the Committee welcomed the Government's plan to expand the role of digital technology. However, it also stressed the importance of the continuation of existing, non-digital methods of communication.

As a result of the Government's reforms, evidence suggests that there would potentially be an increase in legal challenges, through judicial review, which would be more debilitating because a successful review can stop the Local Plan in its tracks and stymie development generally.

Green Belt

The report notes that there is a considerable misunderstanding about the purpose and function of Green Belt, including that people often confused the role of Green Belt, and overlook its original purpose having been to keep urban areas apart. In response to a public engagement survey regarding the Green Belt, strong expressions were received in support of the Green Belt. Many respondents stated that Green Belt should always stay as Green Belt and never be built on and that all brownfield land should be utilised before building on the Green Belt is even considered.

Furthermore, additional comments suggested that the Green Belt should be extended, which reflected fears about its reputed recent reduction. Numerous calls for reviews of the Green Belt were received with the aim to examine the purpose of the Green Belt, including whether it continues to serve that function, how the public understand it, what should be the criteria for inclusion, and what additional protections might be

appropriate. The report highlights that the creation of new Local Plans provides an opportunity for local reviews of Green Belts.

Within the report, there was also emphasis placed on the importance of protecting *Metropolitan Open Land* (MOL) in London, and other green spaces in urban areas, as there were concerns that green spaces not in protected spaces were vulnerable. In response, the GLA (Greater London Authority) called for the same protections that apply to Green Belt to apply to MOL. The Committee noted disappointment that the Government White Paper did not confirm the same protections for MOL as for Green Belt. However, the report recommends that the Government extend the same protections that are provided under any new planning system to MOL as apply to Green Belt.

Environmental and Historical Protections

A major feature of the planning system since the Second World War has been ensuring the protection of environmental and historic sites and buildings. Within the Government's White Paper, the commitment was made that, new homes would have 75-80% lower CO₂ emissions by 2025, as part of achieving net zero by 2050.

There are, currently, concerns about enforcement under the current system. Similar worries were also highlighted with respect to Areas of Outstanding Natural Beauty, pointing to an increase of 82% in the housing units approved from 2012 and 2017 and a fivefold increase in the amount of AONB land approved for housing in the same period.

According to Urban Vision Enterprise, the Planning White Paper mentions heritage in passing, but with little focus. Although some believe that the framework is adequate, many wish for clarity about the impact on historical and environmental protections in 'growth', 'renewal', and 'protected' areas.

The Committee suggests that there is a case for improving our knowledge of where there are possible historical sites and for further protections for specific sites and currently undesignated locations. Thus, recommendations are made that the Government should publish an assessment of the impact of its proposed changes on historic buildings and sites.

There are further recommendations for



the Government to clarify how it intends to define flood risk in the planning systems and for the planning system to pay greater attention to the importance of green spaces and to wildlife near to people's residences. The Government should also reconsider the retention of sustainability assessments and ensure that the operation of Environmental Impact Assessments in the planning system is covered in its further considerations ahead of the Planning Bill.

How to Deliver New Homes

The Government is committed to increasing the annual delivery of housing units in England to 300,000 units per year, enabling the supply of at least a million new homes by the end of Parliament in 2024. There has been strong criticism of the failure of the Government to explain how it will deliver this target of 300,000 housing units. The consultation received divided views about the target, some strongly supportive, whilst others critical of the arbitrary approach and lack of evidence-based figure.

Specific recommendations were made by the Committee in relation to the need to encourage and provide for specialist housing especially for retirement living. These include a proposed new Use Class C2R for retirement communities.

In relation to these issues on housing, the Committee concluded that the following key factors were required:

- **Greater clarity on how the Government will deliver its ambition for 300,000 housing units a year**
- **That the pace of completing planning permissions is too slow and a 'carrot and stick' are needed**
- **A strategy for increasing the extent of multi-tenure construction on large sites**
- **Greater use of Development Corporations that are transparent and accountable**
- **Incentivising the use of smaller sites and SME builders**
- **Time limits for the completion of construction and non-financial penalties where those limits are exceeded, a limit of 18 months following discharge of planning conditions for work to commence on site**
- **Support and encouragement for local authorities to deliver specialist housing, particularly for the elderly and people with disabilities.**
- **The Government should create a C2R class for retirement communities to ensure clarity in the planning process**
- **A statutory obligation that Local Plans identify sites**

for specialist housing

Conclusions and Recommendations

The Committee's conclusions were categorical on the White Paper that *"We are concerned about the lack of detail in respect of the proposed reforms to the planning system, which has made it very difficult to assess the possible practical implications of many of the reforms."*

In respect of the three areas proposal, the Committee concluded that 'Overall, we are unpersuaded the Government's zoning-based approach will produce a quicker, cheaper, and democratic planning system.'

The Committee also supported the Government's proposal, that up to date Local Plan, should be a statutory requirement on local authorities, and that Local Plans should be more focused and shorter. However, the Committee did not agree that the 30-month timeframe, proposed for the development of Local Plans, is enough to ensure high quality and there was particular concern about the challenges the proposal poses for statutory consultees. The Committee also recognised the value of Neighbourhood Plans provided they are up to date and representative of the whole community.

The Committee also advised that to command public support there also needs to be greater clarity on why and how the housing target needs to be delivered, including why relying on brownfield sites alone would be insufficient, the Government should lay out the evidential basis for its 300,000 housing units a year target and including how it will achieve it, both by tenure and by location.

There should also be support and encouragement for local authorities to deliver specialist housing, particularly for elderly and people with disabilities. The Government should create a C2R class for retirement communities to ensure clarity in the planning process. There should be a statutory obligation that Local Plans identify sites for specialist housing.

If you wish to discuss the implications of this or any other proposed changes, please contact us.