

Just Space briefing note: Planning for the Future White Paper

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Deadline for responses: 11.45pm on the 29 October 2020

Full white paper available from:

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

This briefing is at <https://justspace.org.uk/2020/08/10/new-planning-system>

MHCLG's planning white paper *Planning for the future* has been widely covered in the media and has already been the focus of much criticism, notably for its removal of discretionary planning powers from local authorities in favour of 'zoning', its abolition of negotiated section 106 agreements and the Community Infrastructure Levy in favour of a single new Infrastructure Levy, removal of local authority (& thus community) powers to refuse permission for most developments at application stage and a new emphasis on a national design code to be applied locally.

On many topics the white paper asks for comment on variations of its preferred position. This summary refers to a few of these but most will be considered only in a second briefing which will concentrate on evaluating the white paper against the policies and concerns of Just Space and its member groups.

Below is a brief summary of the key proposals in the document. It is worth noting that this White Paper does not include extension of permitted development, which came into force on 1 August.

It is also worth highlighting that there is a separate consultation on interim changes to the current planning system (<https://www.gov.uk/government/consultations/changes-to-the-current-planning-system>) which proposes lifting the threshold for small developments, exempt from contributions to affordable housing, from 10 to 40 or 50 units, changing the method for assessing local housing need (with potentially massive implications for London) and extending Permission in Principle to Major Developments. This consultation closes on 1 October. A summary and commentary will be posted at <https://justspace.org.uk/2020/08/10/new-planning-system> to assist community groups.

Overview

The white paper starts with the assertion that the current planning process is 'inefficient and opaque, with poor outcomes' and sets out to establish a 'streamlined' system that speeds up decision making, increases community participation through a 'digital first approach', simplifies planning gain, has a greater focus on design (or 'beauty'), and moves to a 'modernised, open data approach'.

The proposals are organised as follows:

Pillar 1: Planning for development

The proposals claim to give increased importance to Local Plans, with a new role. This will require councils to categorise all land into one of the following:

Growth areas conferring outline approval for development which accords with the plan, including 'substantial development' (a term which the paper says will be defined).

Renewal areas with a presumption in favour of development for uses specified as being suitable. This would cover existing built up areas where smaller scale development is appropriate.

Protected areas where there will be stricter controls on development. This would include Green Belt, Conservation Areas, Local Wildlife sites and important areas of green space.

- The word 'zoning' is not actually used. 'Areas' is the word.
- Planning permission would be automatic for schemes in line with local plans in Growth and Renewal Areas, with no need for developers to secure Agreement in Principle. (Proposal 5) Local authorities or their staff would simply have to check conformity with the plan and with the design code.
- In Protected Areas planning permission would still be required, on the same basis as now, but the criteria for local authority decision would largely be set in national policy. The same seems to apply to developments proposed in Growth or Renewal Areas which do not conform to the plan.
- Councils and neighbourhood plans will be required to produce a design code alongside the local plan to provide certainty to developers, and support local character. (Proposal 2) A national code will be produced and will apply in the absence of a local one
- Development management policies will be set nationally to avoid duplication in local plans. (Proposal 2)
- The new Local Plan will be a searchable, interactive map of the area, with sites colour-coded in line with their designated Area status. Authorities will set out suitable development uses, plus limits on height and density, for sub-Areas, in the accompanying text. Growth areas will include sites specified for self- and custom-build and community housing. (Proposal 1)
- Detailed planning permission on substantial developments will take one of three forms: a reserved matters process to agree outstanding details, a Local Development Order by the local authority with a design code and master plan, or a Development Consent Order under the Nationally Significant Infrastructure Projects regime. (Proposal 5)
- Existing 'soundness' tests and sustainability appraisals will be replaced by a single, statutory 'sustainable development test' - no further detail is given on this. (Proposal 3)
- A standard method will be used to assess housing requirement, to ensure land is released for development in least affordable places where under-supply has been chronic. Special measures will be devised for authorities which have failed to meet their output targets. Authorities can make joint planning agreements, and Mayoral Combined Authorities can oversee distribution of allocation (London is not mentioned but this provision might include the Mayor of London). (Proposal 4) The 'duty to cooperate' is removed, however.
- The new plan-making process will take no more than 30 months: including 6 weeks for consultation on the proposals. (Proposal 8). The role of Examinations in Public could be reduced and the citizen's right to be heard in a face-to-face setting would be at the discretion of an inspector.
- Neighbourhood planning to be retained and potentially extended to very small areas such as streets.

- Masterplans for substantial developments should require a range of development types by different developers to speed up delivery

Pillar 2: Planning for beautiful and sustainable places

The National Design Guide, National Model Design Code and a revised Manual for Streets will provide a framework for improved design of places. Local authorities will be expected to consult the community on local design codes in order to identify and protect diverse local character and identify ‘what is popular locally’ - design codes will only be given weight in the planning process if they can demonstrate local input (proposal 11). Authorities will be expected to recruit a Chief Officer of Design and Place Making (proposal 12).

In addition:

- National policy and legislation will include a ‘fast track for beauty’ (proposal 14)
- Proposals to widen and change the nature of permitted development will allow ‘popular and easily replicable forms of development’ to be approved quickly, in accordance with design principles, through the use of ‘pattern books’ i.e. preapproved designs delivered through modern methods of construction. (Proposal 14) Authorities will be able to modify these standard types based on evidence of what’s ‘popular’ locally.
- All new streets will be tree-lined
- Environmental Impact Assessments will be simplified, with environmental aspects to be decided earlier in the process to quicker timescales (Proposal 16), using open data to reduce the need for site specific surveys
- Certain ‘architectural specialists’ may be freed from listed building consents

Pillar 3 - Planning for infrastructure and connected places

The paper proposes a nationally-set Infrastructure Levy, either at a single national percentage of gross development value (or possibly at varied rates for different areas) to replace s106 agreements and CIL. This will be charged on the portion of a development’s value over a set threshold and small sites will be exempt, as would all development in “low value” areas below the threshold. Here, the definition of small housing sites is being changed from 10 to 25^{*}. The levy will be set when permission is granted but not payable until occupation. (Proposal 19) Local authorities will be encouraged to borrow against agreed payments so they can start building any infrastructure required for the new homes before they are delivered. The paper notes the elevated risk to local authorities from these measures.

- The Infrastructure Levy could be extended to capture changes of land use through permitted development rights (Proposal 20)
- The Levy will be the primary way of delivering ‘affordable’ homes, which local authorities can accept from the developer in lieu of payment. The paper proposes

*Note that the October 1 consultation on changes to the current planning system proposes raising the threshold above which affordable housing obligations apply from 10 dwellings to 40 or 50 and it would be prudent to assume that such a change would apply here too. The change would be expected to reduce the supply of affordable housing substantially, according to the government’s estimate.

that First Homes, which are sold directly by the developer to first time buyers, local residents and key workers at a 30% discount, should be a first charge against the Levy. (Proposal 21). It makes no mention of social housing.

- Local authorities will have more freedom to choose how they use the Levy. The 25% neighbourhood share will be kept with enhanced community engagement (Proposal 22). The government is considering ring-fencing a proportion for affordable housing, but may also allow councils to spend on their policy priorities, including reducing council tax.
- In addition to the nationally-set (uniform or regionally-varied) % rates of Levy, the white paper envisages that the supplementary Mayor's CIL (as we have at the moment for Crossrail) would be available to GLA and combined authorities for major infrastructure. Various alternatives are offered for comment.

Delivering change

This section sets out briefly the changing role of the planning profession and the Government's plans to boost high quality digital services. There are proposals for disposing of public land and a call for evidence on data on land control (probably referring to options which are currently not covered by the Land Registry). Changes to the legislative framework for development corporations will be forthcoming.

Local authorities will receive some funding to transition to the new arrangements, but, importantly, there is an expectation that, in future, local planning services will be largely funded through development contributions. (Proposal 23)

The white paper is not accompanied by an Equality Impact Assessment, but those who consider that it might impact on groups protected under the Equality Act 2010 are invited to submit evidence of that.

Omissions and weaknesses of the white paper – further work

Just Space will produce, in early October, a commentary designed to help member groups and others in London to prepare their own responses to the consultation– and to form a draft of a possible response by Just Space itself.

It is also important to consider the issues which are NOT covered by the white paper, including many of the major issues which Just Space has been most concerned about. A second briefing will identify some of these.

It seems to be generally agreed that the more submissions the better so we encourage everyone to respond to the consultation.

Just Space is grateful to Joanna Pearce for much of the work in preparing this briefing.