

Just Space response to consultation on the planning White Paper

Introduction

In response to the proposed changes, this submission sets out some insights from community groups on how London, planning and the planning system OUGHT to develop. (In brackets are the government question numbers to which our responses relate.)

Just Space (Q2)

Just Space is a community-led network of London groups influencing plan making and planning policy to ensure public debate on crucial issues of social justice and economic and environmental sustainability.

Sharing information, research and resources, we are active at neighbourhood, borough and London-wide levels. What brought us together was a need to challenge the domination of the planning process by developers and public bodies, the latter heavily influenced by property development interests. [More at JustSpace.org.uk](http://JustSpace.org.uk)

The Just Space network has, over the last thirteen years, brought together and nurtured a huge amount of experience and know-how from London's diverse community organisations.¹ The insights and views reported here flow from meetings at which member organisations debated the White Paper proposals, agreeing that the planning system does need changes – but largely not ones that the government is proposing.

The context (Q1, Q3, Q4, Q21)

Far from achieving sustainable development and meaningful participation, planning in London has become largely subordinated to real estate and financial interests, who now have overwhelming influence on how the plans for London emerge and on whether they are followed. Development has become geared towards market-sector housing, housing which fewer and fewer Londoners can afford.

The fundamental problem is that the planning system is in effect working to help developers and landowners extract huge value from very lucrative planning permissions. The fact that all the money is going to them is the reason why there is no money left over to help people who really need housing – tenants, the homeless and all the others. Many many Londoners are impoverished by the process.

¹ We use 'community sector' to refer to grassroots organisations, many un-incorporated, and mostly without paid staff or substantial budgets, to distinguish these from 'voluntary sector' bodies and NGOs which typically have paid staff and structured organisations and the term 'voluntary' applies only to the trustees.

In the context of economic uncertainty and deep-rooted inequalities, in the face of the housing crisis, environmental challenges and, for many, a deepening sense of disenfranchisement, there is a compelling requirement for a break with this past.

Therefore, to us, any reforms to the planning system should be underpinned by a system that allows society to benefit rather than developers and landowners, together with commitment to justice in planning at the local and city-wide levels. This would bring together the principles of fairness, recognition, inclusion and sustainability. It is also about the participation of all —including those under-represented or completely excluded— in the decisions that affect their lives.

Additionally, any changes must recognise and address the impact of our development path on finite environmental resources, and the need to achieve genuinely sustainable development for present and future generations.

We see that the Government views participation as an obstacle. People who get together to protect their communities from displacement, their green space, their air quality, their jobs, are dismissed in the White Paper as “a small minority” apparently opposed to more housing being added to their areas. This is not the case in London, where public participation stems from the desire to protect public assets and achieve more housing that people can genuinely afford to rent or buy. We view the housing crisis from this perspective.

The problem with the current system and a democratic way forward (Q5, Q6)

Most people who do not know much about planning nevertheless have important information and views about how their neighbourhood should or should not develop and they need to be given a way to engage with a process that will determine what their lives are going to be like. For a layperson planning is extremely bureaucratic, difficult to engage with and, in actual fact, seems to demonstrate that there is a milieu —the authorities and developers— that talk amongst themselves and exclude the community. This has to change.

The too-close relationship between Council officers, Councillors and the development world is shown in the way that individuals swap around between these roles.

There are cosy pre-application chats between developers and officers, but also with key councillors on the planning committee, which are private and secret. Commitments are clearly made in advance which are almost impossible to challenge once public consultation takes place and backbench councillors see the schemes.

The problem is only partly with the system in the sense of a planning system with a set of laws and procedures. That, on its own, is not what has brought us to this terrible situation.

So changing the laws and system is not the main thing needed to get us into a better situation. We need to reach a place where developer interests do not trump the interests of citizens and communities.

The proposed changes appear to wipe out even some of the limited opportunities people have now to make contributions to the planning process. There will be no public involvement at all before the Council produce their draft Local Plan, with a mere six weeks to comment on designated sites in the draft. Whilst the White Paper's emphasis for public involvement is on front-loading plan-making, in our experience many people are not stimulated to participate until later stages when a fuller idea of proposals is emerging. It also fails some of the tests confirmed by the Supreme Court for a fair and, therefore, lawful consultation –“that sufficient reasons for the proposal be put forward to allow for intelligent consideration and response; that adequate time be given for that consideration and response; and that responses be conscientiously taken into account”. The tests also include that consultation should start before preferred options have crystallised.

Within the 12 month period when a Local Plan is being written, more consultation must be involved and private lobbying of Councils over contested sites must be prohibited.

As a basic requirement, all councils should have a duty to create a comprehensive list of organisations which will receive direct information at all stages of the process including the formulation of a new local plan or new site allocation or zoning plan, or when public land is to be disposed of. Any organisation or individual may add themselves to this open register and there should be no privileged treatment for established consultees such as parish councils, neighbourhood forums or amenity societies: equal access for all is required.

Rather than being bombarded with spurious information that buries important details in mountains of impenetrable documents and PDFs, the information needs to be clear, meaningful and presented at the right time.

Community groups want to see the retention and extension of old-fashioned methods of advertisement alongside new ones: notices on lampposts, prominently displayed signs about the place when site allocations or decisions are coming up. And it is enormously important that documents are printed out and made available in libraries and schools.

Resources being used to train more planners must also go to the community sector to ensure participation, because it is not enough to just have the opportunity. Community liaison should be appropriately staffed on the same scale as the time spent with applicants and developers.

Not only an active involvement, but also meaningful involvement is needed. Key to the involvement of the public is a mechanism to ensure that a planner or authority cannot simply ignore the results of a consultation. We believe that there should be some third party entitlement to appeal to a higher authority because, without that, consultation is often useless.

Essentially, an up-to-date Statement of Community Involvement (SCI) covering such issues is needed as part of every local plan and major development proposal.

Can technology create a more participatory process, not just for neighbourhood plans but for all public participation? (Q11, Q13b)

Moving planning meetings online has been positive and should be kept, not as the default (only) position, but as an additional means to enable participation from those who would otherwise not be able to attend in person.

The digital process has given a great extension of access to meetings. It really does enable a lot more people to be involved. But we need to focus on how to help those people who can't get access to digital platforms, for one reason or another. One solution is to have a requirement that local authorities resource voluntary sector organisations who can professionally support those who are technologically excluded.

Organisations of disabled people will be able to help guide innovation, for example in developing touchable 3D models which can assist people with visual impairments to grasp development proposals.

Whether planning meetings are virtual or physical or both, take care to ensure as wide a representation from the community as possible, including actively ensuring different groups within the community know about the meetings and how to be involved; giving thought to timings and locations; providing materials in advance if required and in different accessible formats; providing assistance if required during meetings, whether virtual or physical (for example a notetaker or physical guidance in venues). Budgets need to provide for reasonable adjustments to enable full participation.

As well as a comprehensive resources and skills strategy for planners to support the implementation of digital reforms, resource must also go into both the community sector and the voluntary sector.

Digitally based information is not getting across to people living in the estates, which is why Tenants and Residents Associations are so important, and there need to be community workers employed by the local authority, whose responsibility is to get this information out. Leafletting and 'door knocking' can achieve greater degrees of informed participation.

These are very simple things, but they're not done. They should be part of the up-to-date Statement of Community involvement (SCI) for every local plan and major development proposal.

There's a kind of social class or occupational bias built in to the use of techniques like zoom, which does not conform to the general idea that technology equals wider access. People in professional white collar occupations develop a confidence or facility to use these kinds of techniques as part of their paid employment. But people in manual occupations and a whole lot of more working class jobs, just do not have that at all. Thus, it tends to be lower-income non professional people who normally do attend physical meetings who are noticeably not attending on zoom. The impact is wider than just groups protected under the Equality Act.

The Covid19 pandemic has shed light on the high proportion of low-income households who have neither the equipment, nor can afford the data-access, for their children to participate in home schooling during school closures – while richer families take these things for granted. Actions needed to correct this yawning inequality would similarly benefit participation in civic life, including planning.

Growth, Renewal and Protected Areas (Q6, Q9a, Q9b)

While we are supposed to have a plan-led system, with the development plan (ie neighbourhood plan/local plan/London Plan) providing the basis, or starting point, for decisions, in practice this does not always happen. Communities already spend a huge amount of time trying to influence these plans. But then, because we have such a flexible developer-orientated system, together with a rigid requirement to meet crude housing targets, the local plan requirements, such as for affordable housing, community facilities or protecting local green space, all too often get overridden at the planning permission stage.

This is where we often feel completely marginalized and are critical of the power given to developers in the current system, because development management lacks transparency and accountability.

However, the removal of the right to object to planning applications is a grave concern. Should Growth, Renewal and Protected Areas be designated, with development management by-passed or removed from public participation, we believe that this will be an overwhelming advantage to the most powerful players at the expense of public goods. These players, as now, will also have the funds for legal help in making their arguments to the decision-makers.

It must be stressed that London, which is not mentioned in the White Paper, has a huge variety of different uses within small areas, making zoning extremely complex.

Just Space has objected strongly and consistently to the designation and implementation of London's Opportunity Areas, which are comparable with the proposed Growth and Renewal areas. Based on our evidence, the impact of Opportunity Areas on communities across London has been negative in that there has been a significant loss of social housing and valued residential neighbourhoods and work spaces, while Opportunity Areas do not create the kinds of housing and neighbourhoods that London needs

The declaration of Opportunity Areas incites increased land values and speculation which places intense pressure on existing uses. Opportunity Areas are not creating the kinds of housing and neighbourhoods that London needs. The pressure to develop at scale, the inflated land prices in Opportunity Areas and expectations over the financial contribution required for infrastructure investment means that large scale, dense and high rise developments with a predominance of expensive market housing are the result.

Funding for social needs and public, green and open space are often seen as residual to the Areas' development. Successive attempts to revise schemes to pay for infrastructure, satisfy incumbent land-owners and meet affordable housing targets tend to lead to extreme escalation of densities and to local economies being extinguished.

The poor consultation process and low levels of public information for Opportunity Areas have consequently poor outcomes. The normal planning processes for their delivery are outside the conventions of public participation, review and accountability.

Opportunity Areas are defined as taking place on "brownfield land" and we strongly oppose the fact that "brownfield" can include land occupied by communities and vital industrial activity. This suggests the same battles taking place in the designation of Growth Areas in local plans. We are seriously concerned that most of London (outside conservation areas) could be designated as "renewal" which would remove protection from **all** our low-income housing and ordinary workplaces.

(Q6) Just Space groups have always argued that the key policies we fight for in plan-making — especially minimum social housing proportions, space and green-space standards and density limits — should be strictly enforced, not flexible. So often councils are persuaded by developers to relax some of these policies in the interests of 'viability' or other considerations. This brings planning and local government into disrepute and makes the planning permission / development management stage the crucial arena for challenge. If the government's proposals meant that these key policy requirements were made obligatory then perhaps citizens and community groups would put more effort into plan-making stages and accept a reduced need for participation at final permission stage. But we'll take a lot of convincing.

If the government's proposals do go ahead, there will need to be a transition period with detailed planning permission required and full public participation and rights to object at

development management stage until the new, less flexible, local plan system is bedded down and trusted.

Finally, it appears that the **right** of citizens to be heard by an inspector in the examination of a local plan is under threat and that should be resisted strongly.

Sustainable development (Q6, Q7a, Q16)

The White Paper proposes to sweep away all the current tests for Local Plans and use just one criterion: sustainable development. *“The achievement of sustainable development is an existing and well-understood basis for the planning system, and we propose that it should be retained.”*

Just Space groups share the strongest objection to this proposal as a bald statement.

*What is “well-understood” is that the phrase **sustainable development** is now virtually meaningless: almost any development project can claim the label and it is too vague to challenge effectively – for officers, councilors and communities. It’s part of what brings planning into disrepute.*

It means “anything goes”, and that is clear from the way it is used as a threat to councils who have no up-to-date plan or inadequate land supply: they will suffer a **presumption in favour of sustainable development**.

To be a robust decision rule for plans, the phrase must be officially elaborated as a series of benchmarks or criteria, against each of which one can enter YES or NO. Without this elaboration nobody could intelligently answer YES to the proposal. The existing schedule to the directives is a good start; another interesting model is the Welsh Wellbeing of Future Generations Act.

Most people think sustainability is about environment and clearly the criteria would have to deal with travel & building emissions, biodiversity, depletion of resources, global warming and other imperatives.

*But sustainability is supposed to have two other ‘pillars’: social and economic. Just Space member groups have struggled for years to get **social** sustainability recognised in planning: to sustain the continued viability of low- and mixed-income communities – their homes, jobs and shared facilities. Covid 19 has shone a bright light on the un-sustainable conditions in which key workers and their families have to survive being confined to inadequate homes and neighbourhoods because they are relatively poor and to a disproportionate extent are from ethnic minorities.*

***Economic** sustainability is even more elusive and imprecise. Usually it just means that a scheme is profitable for developers and land owners, however destructive it is*

of the existing local economy – rarely even surveyed and understood by decision makers— out of which a robust future could emerge.

Whether **sustainable development** can be made into an acceptable set of rules for approving local plans must depend very much on what the government means by “we propose to abolish the Sustainability Appraisal system and develop a simplified process for assessing the environmental impact of plans, which would continue to satisfy the requirements of UK and international law and treaties...”. And the government is not telling us what they have in mind. Is it just more bland box-ticking like so much of today’s impact studies? And will the new streamlined version cover the economic and social, as well as the environmental, dimensions?

In this context, we note that the White Paper seems not to have considered the obligations of all public bodies under the Equality Act 2010, and especially the Public Sector Equality Duty which should underpin the making and evaluation of Local and other Plans.

Capturing Land Values (Q22, Q23)

The current system just plays into the pockets of owners and developers at the expense of livelihoods, health and welfare of the rest of us.

The money “value” of houses, land and property is massive and grows, boosted by public services and enormous state investments like Crossrail. All that added value should return to the community but what is captured by CIL and S106 is tiny —

– and then what happens to it (the Planning Gain benefits)? There is no accountability or audit. Annual Monitoring Reports simply record what housing was supposed to be the outcome of agreements while developers and housing associations can switch tenure forms or rent levels with impunity. No data. Not a very smart city.

—and the entire negotiated S106 system breeds murky confidential discussions and corrupt ‘professional’ valuations. We had the experience with one central London scheme where the same chartered surveyors produced a secret high valuation for investors and a low one to show the council that they could not afford any social housing.

For community groups, getting rid of the entire ‘viability’ concept and system is a high priority. Policies should be clear and inflexible and if that makes a site unprofitable then the land value will fall and existing uses can continue. Tough for speculators who paid too much; good news for communities using the land.

“It seems to me that the government White Paper is saying we have a very complicated system of raising charges at the moment in that we have CIL, which

takes many forms and we have Section 106. And of course we have payments in kind as well. And the White Paper is saying that there needs to be a more uniform and simplified system. We support that.”

But the White Paper mechanism (and the earlier changes consulted on last month) would clearly reduce the stock and flow of social rented homes below even today’s inadequate levels and push up support (and prices) for owner-occupation. That is disastrous.

It is an open question whether it should be the planning system which captures land value and its growth: why not the tax system? Where can we even have this debate?

Michèle Dix of TfL says that Crossrail2 would cost £30 billions but add £60 billions of market value to the stock of owner-occupied housing in the areas served. By comparison the £7 billion annual value captured from S106 and CIL in the whole country is tiny. Most of the value generated through planning and infrastructure development is captured privately. And...

“...I discovered, to my surprise, that when when we pay a lot on our water bill we’re paying for extensions of infrastructure to feed new buildings which is effectively a subsidy to the developer of that building. So actually, we should be capturing value to feed all infrastructure, electricity, water as well as transport and I just don’t think most people - That’s not even occurred to them that the bills they’re paying are actually subsidizing developers in in a slightly convoluted way.”

The White Paper says it’s a radical reform. The radical reform we want to discuss is the valuing and expansion of the commons —of the land and the rights to use it held in a variety of forms, new and old, by collectivities of people. Housing and other co-ops, rights to roam and socialise, to manage parks and streams. Taking more land and housing out of the market and taking care of the non-market stock we inherited.

There is some tension between that (commons) approach and moving to Land Value Taxation which could be simply a more ‘efficient’ capitalism in which markets have even more power to determine densities and uses. Just Space has made a start on these issues.² It seems the government has not.

Impact of the changes (Q26)

We are shocked by the absence of any impact studies alongside this White Paper. We question the legality and the ethics of these omissions: the health, environmental and

² [Towards a Community-led Plan for London 2016](#) and a draft additional chapter on [Land Reform 2018](#). Just Space also contributed to [A People’s Land Policy](#)

inequality impacts of major changes to the planning system look like being major and should have been modelled, evaluated and reported upon as far as possible.

“On one issue, equality impact, the government has the nerve to acknowledge that it has not done an impact study. It passes the buck to us, the citizens, to point out any adverse impacts which we can foresee. How evasive.”

Our own informed guesstimate is that the proposed changes (along with those consulted upon last month, on which we [already commented](#)) will further push housing output in England towards owner-occupation and towards further house price inflation, undermining the already inadequate output of social rent housing for which the need is paramount. The application of the Renewal area designation would very likely make it even harder to protect what is left of the social housing stock and the industrial and service enterprises, many of them SMEs, which are such a resilient part of our economy.

These impacts would fall on working class people, low-and middle-income households, among whom many protected groups in the population are disproportionately represented. Thus we would expect to see that disabled people, single parent households (most of which are women), members of many Black, Asian and Minority Ethnic groups, younger adults and many older people would loose out.

Serious impact studies must accompany the next stage of this ‘reform’.

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