

White Paper: Planning for the Future

Burwash Parish Council response to the request from NALC for comments on this government consultation document:

This paper proposes a radical re-write of the planning system. There are some positive aspirations for reducing the lengthy, bureaucratic Local Plan process, streamlining applications, developer contributions and improving access to decision-making by the community with more digitisation and standardised presentation. The AONB protections will remain as per the NPPF (although we have already seen how these can routinely be set aside when faced with target housing numbers).

The positives are, however, heavily outweighed by the negatives:

- The imposition of housing targets by central government removes decision-making from local authorities and reduces the role and influence of locally elected members and their communities.
- Much of the reform proposed facilitates a speeded-up and much simplified approval system which, whilst commendable as an aspiration, heavily favours the developer by removing requirements for reports and assessments which are currently required to ensure the site is appropriate, the NPPF is followed and communities have been properly consulted. We would strongly oppose this.
- Much is left unsaid about how and at what stage local communities will have any input into decisions as to how land will be categorised (Growth, Renewal, Protected) and where future housing will be sited. The likelihood of individuals / communities being able to scrutinise and challenge the new “in principle” approvals will be reduced dramatically, if not entirely removed.
- The only suggestion of enhanced public consultation is through web-based applications (which we already have access to) and smartphones on which newly standardised ‘data’ (presumably including plans and maps) will be available. This disenfranchises those without hi-tech equipment / skills / reliable connectivity.
- If questions posed to the public are as leading as those in the White Paper then the chance for views to be heard is under great threat.

Another key proposal of the paper is in simplifying the collection of developer contributions. Section 106 agreements will be scrapped, and the existing Community Infrastructure Levy will be morphed into a nationally-set levy on development value that the government says will bring in at least as much or more in the way of developer contributions as the existing system. In principle this makes sense, but there are more questions raised than answered in the paper.

- The Levy will only be paid at the point of sale which means councils must pay for and deliver whatever infrastructure is needed upfront with the option to borrow against their future receipts, which introduces a significant commercial risk.

- The suggestion of setting a national charge seems inappropriate when the amount of infrastructure needed for different developments can vary considerably – and may not necessarily be related to value of the site.
- It is also suggested that Local Authorities might be given greater flexibility in how they spend the levies, including reductions in council tax, which seems questionable.

Other Concerns:

The section on EFFECTIVE STEWARDSHIP AND ENHANCEMENT OF OUR NATURAL AND HISTORIC ENVIRONMENT includes no questions/options to comment. This section covers very significant issues including proposed simplification of environmental impact/mitigation assessments so as to speed up decision and deliver developments quickly. Although it is noted that there will be a further more detailed consultation in the autumn, after the statement by the Prime Minister in June about ‘newt-counting delays in our system”, it is surprising that no input is being sought at this stage to feed into the paper. A few questions and comments arising now would be:

- How will mandatory net gains for biodiversity as a condition of most new developments work? Which developments will be the exception? Where a field is being built on, how will a net gain in biodiversity be achieved /measured?
- Full surveys should be taken and at the correct time/s of the yearly cycle.
- Proposal 15 seeks to amend the NPPF to maximise environmental benefits by a simpler, effective approach but does not explain further.
- What are the “local, spatially-specific policies” which will identify important views – can these be done digitally / using national and local data?
- If detailed masterplans and codes are not approved at the same time as the Local Plan, and subsequent applications will not require an assessment, it is difficult to see how decision-makers can ensure adequate mitigation, management and enhancement measures are secured and that the biodiversity net gain mandated by the Environment Bill will be delivered.
- It is encouraging to see references to building new homes “fit for a zero carbon future” but there is no explanation as to how in the countryside new housing, where public transport is very often not a viable alternative for those needing to travel to work, won’t result in a significant increase in road traffic.

In conclusion, the paper seems to signal a return to the “soviet-style tractor targets” as described by the then Communities Secretary, Eric Pickles, when they were abolished ten years ago.

Questions

1. What three words do you associate most with the planning system in England?

This first question is unworthy of a government White Paper consultation on such a serious matter. Inevitably there will be criticisms of the current planning system, however, we consider that the proposals contained in the White Paper are significantly worse: they will impose top-down government targets, disenfranchise local input and opinion and remove proper planning controls in order to speed up the delivery of housing which does not address the housing requirement of those in most pressing need.

2. Do you get involved with planning decisions in your local area?

Yes, we are a Parish Council and are consulted on planning applications in our parish by Rother District Council. We actively follow the weekly lists of new applications, conduct site visits and hold regular bi-weekly meetings to discuss applications.

3. Our proposals will make it much easier to access plans and contribute your views to planning decisions. How would you like to find out about plans and planning proposals in the future?

We already receive details of planning applications through Rother District Council and on wider planning issues from RALC/NALC. The data and technological access upgrades make sense we have serious concerns that they will disenfranchise the many members of the community who do not have, or feel confident about using, the internet or smartphones to assess data. Many rural communities have insufficient or unreliable internet / mobile connectivity.

We do not accept the first statement as a fact. We see no evidence from the White Paper that the proposals will result in “transparent and accessible requirements shaped by communities”. There is no particular benefit in having more sophisticated means of access if, as proposed, the decisions on housing targets and area allocations are being made centrally.

4. What are your top three priorities for planning in your local area?

Ensuring that any building in the AONB in our Parish will meet local housing needs including genuinely affordable / social housing.

Protection of the AONB - views, natural and historic characteristics.

Minimising damage to the environment – loss of biodiversity, impact of car-based developments, damage to our dark skies and creeping suburbanisation.

5. Do you agree that Local Plans should be simplified in line with our proposals?

No: This is a loaded question: the section makes sweeping assumptions about the current system that are simply not supported by our local experience. There is no definition of what the new “sustainable development” test - on which everything hinges - actually is. However:

- Yes, Local Plans should be simplified and completed in a short time-frame.

- No, not in line with the White Paper proposals which represent a one size fits all and impose central targets which are not related to local need.

Identifying all land into the three categories is presented as a simplistic, desk-top exercise but does not work for Rother District Council which comprises more than 82% AONB. It will add strain to hard-pressed planning departments and potentially allocate land incorrectly for 'fast-track' approval thus removing existing protections.

6. Do you agree with our proposals for streamlining the development management content of Local Plans, and setting out general development management policies nationally?

No: Another loaded question

- Yes: Streamlining and standardisation is positive.
- No: We have strong reservations about the effective introduction of digital technologies which is a highly disruptive process. There will inevitably be teething problems and high costs as analogue and digital data collides. Track and Trace is an unfortunate recent example of a rushed process that has not even had to 'merge' an existing with a new system.

7(a). Do you agree with our proposals to replace existing legal and policy tests for Local Plans with a consolidated test of "sustainable development", which would include consideration of environmental impact?

No: The new slimmed-down test of "sustainable development" is not defined in the White Paper. It is described as being "in accordance with the policy issued by the Secretary of State" which is neither transparent, nor democratic.

7(b). How could strategic, cross-boundary issues be best planned for in the absence of a formal Duty to Cooperate?

As this proposal effectively centralises planning in the hands of the government it seems irrelevant to ask for suggestions. Presumably this will also be 'planned' and enforced by central government with fines or penalties for failure to cooperate as suggested for other non-compliance issues by local authorities.

8(a). Do you agree that a standard method for establishing housing requirements (that takes into account constraints) should be introduced?

No: Not as proposed in the White Paper. There is no standard method given. It is the missing figure between recorded need and 1 million target by the end of this Parliament. The figures for new housing are based entirely on the political ambition / aspiration of central government and it is disingenuous to imply there is any 'method' behind the targets.

8(b). Do you agree that affordability and the extent of existing urban areas are appropriate indicators of the quantity of development to be accommodated?

No: These are two entirely separate issues. If there is any intended connection between the two issues it has not been articulated. There is an implication (but never a statement) that a

large house-building programme, especially in areas where house prices are high (London and the South-East) will exert a downward pressure on house prices allowing first-time buyers a better chance to purchase their own home. If this is the intention, then the potential downside of new owners being thrown into negative equity and the risk of another banking crisis, should also be noted. Affordability is unlikely to be achieved by increasing the volume of new housing. House prices are principally a function of interest rates (Bank of England paper makes this point).

The question relating to the extent of existing urban areas is unclear when such a term covers such diverse locations as Toxteth and Chelsea, but the point about urban areas being more able to absorb development due to existing infrastructure makes sense.

9(a). Do you agree that there should be automatic outline permission for areas for substantial development (Growth areas) with faster routes for detailed consent?

No: We do not support automatic outline permission as this disenfranchises communities affected by substantial development. It assumes that those impacted were able to have had an input into the original allocation of the site as a growth area. We would support a more efficient process.

9(b). Do you agree with our proposals above for the consent arrangements for Renewal and Protected areas?

No: Not when we read in 2.36:” We will consider the most effective means for neighbours and other interested parties to address any issues of concern where, under this system, the principle of development has been established leaving only detailed matters to be resolved.” This offers absolutely no assurance and we strongly oppose the proposal.

9(c). Do you think there is a case for allowing new settlements to be brought forward under the Nationally Significant Infrastructure Projects regime?

No: No case has been made within the White Paper and no explanation has been given as to how the ‘regime’ mentioned actually works.

10. Do you agree with our proposals to make decision-making faster and more certain?

No: Whilst in principle we would agree with reforms that bring about greater efficiency and clarity in decision-making, we are concerned, as mentioned in our answer to Q6 that successful digitisation will take significantly longer to achieve than is assumed and its role in speeding up housing delivery is vastly over-emphasised. We have nearly 1 million housing units with permission waiting to be built and it is not ‘data’ that is the issue.

11. Do you agree with our proposals for accessible, web-based Local Plans?

NO: We consider that accessibility is crucial but if cannot be exclusively web based. There must still be access for those who are not digitally connected.

Consultation processes are underpinned by common law and, as in 2019 case of Claire Stephenson v Secretary of State for Housing, courts may quash decisions that do not properly observe them.

Artificial intelligence and especially machine learning are important in the decision-making process, but the algorithms are also opaque. This is a particular issue for the planning system where it is very important to be able to show how decisions are made.

12. Do you agree with our proposals for a 30 month statutory timescale for the production of Local Plans?

No: In concept this is a good idea, but not if it is going to be used as deadline to rush through ill-thought out land categorisation and stifle consultation, input and discussion with local communities.

13(a). Do you agree that Neighbourhood Plans should be retained in the reformed planning system?

Yes: We remain concerned, however, that they will be the vehicle for predetermined housing targets over which neighbourhoods and communities have no say, which is our current experience.

13(b). How can the neighbourhood planning process be developed to meet our objectives, such as in the use of digital tools and reflecting community preferences about design?

We have no particular suggestions. We would however, support digital tools that can reach as many members of the community as possible for their views.

14. Do you agree there should be a stronger emphasis on the build out of developments? And if so, what further measures would you support?

Yes. This is the single biggest issue in the current shortage of housing with the continuing delays in build outs (reported to be around 1 million). There should be sanctions against delays. Developers who have already 'land banked' should not be granted permission in areas of higher return, typically 'Protected Areas', as an alternative.

15. What do you think about the design of new development that has happened recently in your area?

We have seen a variety of designs, some of which have been more successful than others. The default has been for planning officials to accept, without question, poor design from developers, which is unsympathetic to the Conservation Area and High Weald AONB landscape of a rural parish, including gothic turrets. It has required significant local input to influence good design.

The latest Appeal on a 30-house development was rejected by the Inspector due to the design – which had been approved and even 'modified' by planning officers, taking reference from a nearby 1970's town-house estate – was considered harmful to the surrounding AONB.

16. Sustainability is at the heart of our proposals. What is your priority for sustainability in your area?

- Reduced reliance on cars – therefore walking distance of village facilities.

- Protection of biodiversity / environmental considerations.
- Social cohesion – small developments with mixed housing.

17. Do you agree with our proposals for improving the production and use of design guides and codes?

Not sure: We already have a High Weald Design Guide which we support. If the National Model Design Code supports specific local / regional design variations, we would be supportive.

18. Do you agree that we should establish a new body to support design coding and building better places, and that each authority should have a chief officer for design and place making?

Yes

19. Do you agree with our proposal to consider how design might be given greater emphasis in the strategic objectives for Homes England?

Yes

20. Do you agree with our proposals for implementing a fast-track for beauty?

No: It would depend on how the “pre-established principles of what good design looks like (informed by community preferences)” works. Good design is appropriate to an individual setting and therefore not easy to mass-produce for the purpose of fast-tracking. It is not clear at what level communities are able to express their preferences – parishes / areas within?

21. When new development happens in your area, what is your priority for what comes with it?

- Housing that meets local needs – genuinely affordable, suitable for elderly.
- More or better infrastructure such as transport and sewerage.

22(a). Should the Government replace the Community Infrastructure Levy and Section 106 planning obligations with a new consolidated Infrastructure Levy, which is charged as a fixed proportion of development value above a set threshold?

Yes: There should be a simplification of developer contributions. It should be fixed at the value at the point of sale value not from the date of planning approval, otherwise developers have no incentive to deliver in a falling market and an option to delay in a rising market.

No: A set threshold below which no contributions need to be made could force Local Plans to approve development on high rather than lower value land.

Section 4.15 acknowledges this potential pitfall.

22(b). Should the Infrastructure Levy rates be set nationally at a single rate, set nationally at an area-specific rate, or set locally?

Locally, with reference to a national scale

22(c). Should the Infrastructure Levy aim to capture the same amount of value overall, or more value, to support greater investment in infrastructure, affordable housing and local communities?

More

22(d). Should we allow local authorities to borrow against the Infrastructure Levy, to support infrastructure delivery in their area?

No: This presents a high risk for the Local Authorities as their repayment will only come from the completed project and property sales. Meanwhile, they are paying for the infrastructure. We have an example of the Bexhill By-Pass which was built in anticipation of delivery of approved sites which has not materialised. It is correctly described by the White Paper as “volatile borrowing” (4.13)

23. Do you agree that the scope of the reformed Infrastructure Levy should capture changes of use through permitted development rights.

Not sure: There is insufficient detail to comment.

24(a). Do you agree that we should aim to secure at least the same amount of affordable housing under the Infrastructure Levy, and as much on-site affordable provision, as at present?

Yes

24(b). Should affordable housing be secured as in-kind payment towards the Infrastructure Levy, or as a ‘right to purchase’ at discounted rates for local authorities?

Not sure: But perhaps there should be an option for both. We would be concerned if Local Authorities had the right to sell back affordable homes to developers in order to raise funds to spend on other affordable housing projects which is mentioned in 4.25 as an option. This would not be in consultation with the local community who may only have supported the development because of the promise of affordable housing.

24(c). If an in-kind delivery approach is taken, should we mitigate against local authority overpayment risk?

Yes. In a volatile or falling market, this could go badly wrong.

24(d). If an in-kind delivery approach is taken, are there additional steps that would need to be taken to support affordable housing quality?

Yes. Presumably Building Regulations and site inspections will continue as usual – and possibly will be even more important for the in-kind affordable homes on the site. Section 4.24 alarmingly contemplates a situation where an affordable housing provider may not be

prepared to buy affordable houses due to their “poor quality”. What would happen to such houses?

25. Should local authorities have fewer restrictions over how they spend the Infrastructure Levy?

NO: Infrastructure’ money should not be spent on non-infrastructure matters such as subsidising council tax. It also risks separating the benefits of development from the community in which it has taken place. By the time these decisions are being made, the local community will have no say in what actually happens.

25(a). If yes, should an affordable housing ‘ring-fence’ be developed?

If affordable housing has been the basis of the application then it should remain as such and not be subject to spending on other projects by Local Authorities or, as suggested, to reduce council tax.

26. Do you have any views on the potential impact of the proposals raised in this consultation on people with protected characteristics as defined in section 149 of the Equality Act 2010?

Yes: As a starting point, this paper is very poorly drafted, the language veers from complex jargon, to unsubstantiated political promises. Most questions are loaded. The almost quarter of a million people classed by Shelter as Homeless are unlikely to have any real say in the proposals which do not even attempt to explain how their needs will be addressed.

"While there's no doubt the planning system needs reform, these shameful proposals do almost nothing to guarantee the delivery of affordable, well-designed and sustainable homes," said RIBA president Alan Jones.