

National planning reforms

Purpose of report

For discussion.

Summary

The Government has recently published two consultations which include proposals for both long-term structural changes to the planning system in England and more immediate amendments to existing processes.

This report summarises the proposals in those consultations and highlights emerging areas of concern for councils.

Recommendation

This item is for update and comment.

Board members are asked to feedback on the key issues that need to be addressed in the LGA's consultation responses.

Action

Officers will use the feedback from Board members to shape the LGA's response to the

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National planning reforms

Introduction

1. On 6 August the Government published the [Planning for the Future White Paper](#) consultation paper with proposals for long-term fundamental structural changes to England's planning system. The consultation period closes on **29 October**.
2. Alongside this, they also published the consultation paper [Changes to the current planning system](#) which includes proposals for more immediate amendments to existing processes. The consultation period closes on **1 October**.
3. This report summarises the proposals in the consultations and highlights potential areas of concern for councils. The Environment, Economy, Housing and Transport (EEHT) Board is leading the response to the consultations on behalf of the LGA.
4. The LGA, through the work of the Environment, Economy, Housing and Transport Board, has been lobbying Government for some time on areas of planning that would improve the ability of councils to shape their areas for the benefit of communities, as well as supporting the Government's aim of building 300,000 homes per year. The Board re-confirmed its positions on planning [at its meeting on 19 May](#).
5. LGA officers are currently working with councils to develop the detailed responses to both consultations. This includes: working with our planning officers' steering group to better understand the implications of the reforms; holding webinars for members and officers across local government to gather views and gathering feedback from other LGA Boards, including both the People and Places and the City Regions Boards.
6. To date we have heard a range of concerns from councils. These include:
 - 6.1. The implications of a new 'zoning' system
 - 6.2. The role of councillors in the new proposed system and concern about a reduction in democracy
 - 6.3. The implications of a new system of developer contributions on the provision of affordable homes and infrastructure
 - 6.4. The resourcing of the planning system and its capacity to absorb the proposed changes

- 6.5. The impact of transitioning to a new planning system on investment and housing delivery in the short to medium term
 - 6.6. Changes to environmental assessments
 - 6.7. Changes to the standard method for assessing housing numbers in strategic plans, with concerns being raised both by those who could see their numbers increase and those who could see their numbers reduce
 - 6.8. The lack of additional incentives in the proposals for developers to build-out existing permissions.
7. We will be lobbying to ensure that the concerns of councils are heard in Government. However, we will also want to work pragmatically with officials to try and design the reforms and how they are introduced in the best interest of councils.

Background

8. Following the 2020 Budget, on 12 March the Government set out their plans for housing and planning reform in the policy paper [Planning for the Future](#) (this is separate to the 6 August White Paper). This signalled the use of zoning tools together with other measures.
9. During the COVID-19 pandemic the Government continued to signal its intention to radically reform the planning system. On 30 June the Prime Minister announced that through a “New Deal” to [‘Build, Build, Build’](#), new regulations would be introduced to allow the regeneration of vacant and redundant buildings without requiring planning permission.
10. In July the [Business and Planning Act 2020](#) introduced changes that come into force on 1 September; such as a fast-track process for varying planning conditions relating to working hours on construction sites, time limits for development (extending the dates on which planning permission, outline planning permission and listed building consents might otherwise expire), and planning proceedings (giving the Planning Inspectorate more flexibility in deciding whether certain local planning appeals should be heard by way of written representations, a hearing or a local inquiry). Our [briefing on the Bill](#) noted that during COVID-19 councils had been working with the development industry to get developments moving again as safely as is possible.
11. Also taking effect from 1 September are changes to the [Use Class Order](#), including new use classes Class E (commercial, business and service), Class F1 (learning and non-residential institutions) and Class F2 (local community).
12. We have continued to lobby for a locally led planning system through our [‘Keep Planning Local’](#) campaign, especially as we rebuild and recover from the pandemic. In our recent [post-pandemic planning stimulus package](#) we reiterated the critical role planning

departments played during the pandemic, even though they are increasingly under resourced.

13. To respond to the White Paper and Changes to the current planning system consultations, we will be consulting with members over the coming weeks to ensure we provide a robust, evidence-based response. Going forward it will be important to consider that immediate planning changes will be one of the many challenges that councils will take on in the autumn. The scale of the changes and the process to bring them into use, in conjunction with other legislative changes, needs to be well thought through. We will continue to work with MHCLG to seek to influence the proposals through our engagement with officials and others operating at the centre of Government.

White Paper: Planning for the Future

14. The White Paper proposes a fundamental review of the existing planning system requiring changes to primary and secondary legislation. A number of key proposals, such as having a rules-based system with land divided into three types of areas (Growth, Renewal and Areas that are Protected), have been drawn from [Policy Exchange's think tank report](#) in January, and [subsequent collection of essays](#) in June.
15. The focus of the proposals appears to be on housebuilding and land-use planning, to the exclusion of the many roles planning undertakes to create places. Councils have raised concerns that a wholesale overhaul of the existing system and change to a new system, including its legislation, will create uncertainty and take many years to deliver and implement across all of Whitehall and the wider planning sector such as developers, consultants, lawyers, and academia. Communities need to be made aware about how and when they can engage in the new planning process. In addition, the proposals need to take a more joined up approach, recognising and accounting for changes to other relevant legislation such as the Environment Bill and any changes as a result of the forthcoming Devolution White Paper.
16. After many years of LGA lobbying, the Government has acknowledged that resourcing of planning departments is an area that needs additional support. However, whilst the White Paper identifies a skills strategy for local authorities, there is no detail regarding how this will be resourced. There is considerable concern from councils about their already stretched capacity. Councils will need to upskill officers to undertake the transition process locally and then implement the new planning regime over many years. Planning affects other areas of council business, and any changes to the system will have impacts well beyond planning departments, across all council operations as a whole.
17. Councils are concerned that the proposals will lead to a loss of local democracy, with the removal of the right to be heard in person at plan enquiries, and the removal of democratic accountability of planning applications in growth areas.

18. The White Paper has 24 individual proposals, some with multiple options, across four themes, summarised below:
 - 18.1. Planning for development – 30 month deadline for local plans to be in place, streamlined plan-making, a new rules-based system, and standardised digital tools
 - 18.2. Planning for beautiful and sustainable places – locally prepared design guidance and codes, a chief officer for design and place-making in each council, a fast-track for beauty, emphasis on sustainability and energy efficiency to achieve net-zero by 2050
 - 18.3. Planning for infrastructure and connected place – a new Infrastructure Levy to deliver affordable housing
 - 18.4. Delivering change – a resource and skills strategy for the planning sector, strengthened enforcement of powers and sanctions.

Planning for development

19. Every area will be required to have a Local Plan developed through a streamlined process whereby councils will need to have an up to date plan within 30 months of the legislation being brought into force, i.e. by December 2023. There will be sanctions for failing to meet this deadline, although this is not elaborated on. Local planning authorities who have adopted a Local Plan within the previous three years or where a Local Plan has been submitted to the Secretary of State for examination will have 42 months from when the legislation is brought into force, or upon adoption of the most recent plan, whichever is later.
20. Local Plans will need to set clear rules rather than general policies for development. General development management policies will now be set nationally in the National Planning Policy Framework (NPPF), with a more focused role for Local Plans in identifying site and area specific requirements, alongside locally-produced design codes.
21. The White Paper proposes early enhanced engagement with neighbourhoods and communities at the Local Plan stage. There is no detail on what the engagement process will be, nor does it recognise the importance of community engagement with developers prior to making their application. Far fewer individual applications will go through planning committees and councillors will not be able to represent their communities where there are local concerns about individual applications. The council and councillors' role in other areas where communities need support such as enforcement is not detailed. Overall the paper does not explain how the new process will help improve better engagement or reach a wider local audience, at the plan making stage; this is particularly problematic when this may be communities only opportunity.
22. Local Plans will need to be significantly shorter, visual and map-based, based on the latest digital technology and standardised using a new template of no more than 50

pages. The current Sustainability Appraisal system will be replaced with a single statutory “sustainable development” test. This will consider whether the plan contributes to achieving sustainable development in accordance with policy issued by the Secretary of State. There will no longer be a requirement to consider viability or a ‘Duty to Cooperate’, although further consideration will be given to strategic cross-boundary issues, e.g. major infrastructure or strategic sites.

23. Local Plans would need to identify all land in one of three categories:

23.1. Growth areas – suitable for substantial development which will receive outline planning permission with no need for planning committee

23.2. Renewal areas – suitable for development, presumption will be in favour of development

23.3. Protected areas – will require full planning permission, and include land such as Green Belt, Areas of Outstanding Natural Beauty, Conservation Areas, etc.

24. The paper proposes two alternative ‘area’ options. The first alternative option suggests combining Growth and Renewal into one land typology (with sub-areas), that would be granted permission in principle, not outline planning permission. A second alternative option, which does not need new primary legislation, would identify only Growth areas and grant them permission in principle.

25. Although not called zones in the paper, the ‘areas’ approach is based on zonal planning systems, first raised in the January Policy Exchange report, followed by the Government’s Planning for the Future policy paper in March. The White Paper suggests that contrary to England, countries where zonal planning systems are used, including Japan, the Netherlands and Germany, provide greater certainty up front. However, the paper fails to recognise that Japan has a top-down system of government and processes; the Netherlands has a spatial planning system whereby decisions are made at the national, regional and local levels and land-use planning is a key spatial planning tool; and Germany, which has a similar spatial planning system to the Netherlands, has a highly devolved system of government. These examples do not provide off-the shelf options for England and it is therefore unclear how the new areas will work in detail.

26. The White Paper also proposes a new nationally determined binding housing requirement, consistent with the delivery of 300,000 homes annually, that local planning authorities would have to deliver through their Local Plans. This would be focused on areas where affordability pressure is highest. The intention is that it will factor in: land constraints; the size of existing urban settlements; the relative affordability of places; the opportunities to use brownfield land; allowance for land required for other development; and a buffer to ensure enough land is provided. No further details are given, but the

White Paper references changes to the standard method for assessing housing numbers, outlined in the current planning system consultation, which will form part of the process of setting the binding housing requirement.

Planning for beautiful and sustainable places

27. Proposals in this section are largely influenced by the Building Better, Building Beautiful Commission's report [Living with Beauty](#). The first includes a proposal to fast-track or expedite 'beautiful buildings'. To do this: the NPPF will be updated to ensure that schemes which comply with local design guides and codes have a positive advantage; by requiring that masterplans and site-specific codes are agreed as a condition of the permission in principle which is granted through the plan; and by widening and changing the nature of permitted development so that popular and replicable development can be approved quickly to enable 'gentle intensification'. The use of 'pattern books' would be reintroduced to articulate standard building types, options and associated rules (such as heights and setbacks) in Renewal areas. There is scant detail about the role of heritage.
28. Additional proposals aim to protect green spaces, allow for more building on brownfield land, and require that all new streets be tree lined. Whilst the paper talks about protecting and promoting the stewardship and improvement of the countryside and environment there is little detail and no mention of farming, agriculture, or ecosystem services.
29. From 2025 homes will be expected to produce 75-80 per cent lower CO2 emissions compared to current levels to become 'zero carbon ready', with the ability to become zero carbon over time. The Government intends to review the Future Homes Standard roadmap to align with this proposal. In [our response to the Future Homes Standard](#) consultation in February 2020, we recommended the more ambitious option for higher fabric standards, and strongly opposed the proposal to restrict local planning authorities from setting higher energy efficiency standards for new homes.
30. There will be a new system for sustainability appraisals (SA) and environmental impact assessments (EIA). No details have been provided. Councils have raised concerns about this, and that the removal of environmental assessments will need to be aligned with the goals of the Environment Bill.

Planning for infrastructure and connected place

31. The paper proposes a new Infrastructure Levy to replace the existing developer contributions system of S106 and the Community Infrastructure Levy (CIL). The levy would be charged as a fixed proportion of the development value above a threshold, with a mandatory nationally-set rate or rates. The current system of planning obligations will be abolished. Revenues would continue to be collected and spent locally.

32. In areas where land value uplift is insufficient to support significant levels of land value capture, some or all the value generated by the development would be below the threshold, and not subject to the Infrastructure Levy. In higher value areas, a much greater proportion of the development value would be above the exempt amount, and subject to the Infrastructure Levy. 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.
33. It is unclear what impact these reforms would have on the overall level of developer contributions and their distribution, or on the number of on-site affordable houses provided. Councils have raised concern that the huge variance in the market value of developments across the country, could result in some areas having greater capacity to benefit and fund local infrastructure needs and secure affordable homes than others. It will be important that local government is involved in the design of any new system for securing developer contributions.

Delivering change

34. This final section identifies measures required to transition from our current to the new planning system, and the role of local planning authorities and the Planning Inspectorate in that transition. As new skills will be required in urban design, masterplanning and community engagement, a skills strategy for the planning sector is proposed to support the implementation of the reforms. Local authorities will also be subject to a new performance framework, as well as being required to place more emphasis on the enforcement of planning standards and decisions. It will be important that local government is involved in the design of any new skills strategies.
35. Planning fees would 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. However, the LGA has lobbied for councils' ability to set fees locally to ensure they can recover the true cost of processing applications.
36. Leading local economic recovery will be one of the biggest issues for councils. There needs to be confidence in the current planning system to deliver recovery and kick-start construction projects in the autumn. Many councils have told us that the level of overhaul to the planning system is likely to create significant uncertainty, and that now more than ever we need stability and certainty in planning. We will want to work with the Government on the transitioning process.

Changes to the current planning system proposals

37. [Changes to the planning system](#) sets out changes to policy and regulations that can be implemented immediately. It proposes the securing of First Homes through developer contributions. This includes requiring 25 per cent of all affordable housing secured through developer contributions to be First Homes sold at a minimum 30 per cent discount. The proposals also include changes to the standard method for assessing local housing need; temporarily raising the small sites threshold below which developers will not be required to contribute to affordable housing (up to 40 or 50 units) to support SME builders; and extending the current Permission in Principle to major development.

38. On the affordable housing threshold, current national policy is that affordable housing contributions should not be sought for developments of fewer than 10 homes. In designated rural areas a lower threshold of five homes or fewer is allowed. The consultation proposes increasing the trigger threshold so that sites of 40 or possibly 50 homes will be exempt from providing affordable housing. Councils have raised concerns that this could result in increasing numbers of applications below the 40 or 50 site affordable housing trigger, where sites could be delivering more. This could have the unintended consequence of delivering less homes overall, as well as no affordable homes.
39. The Government has indicated that it intends to introduce a First Homes exception site policy to provide affordable housing for local people. In [our response to the First Homes consultation](#) in May we raised concerns that the implementation of First Homes could lead to a significant reduction in other types of affordable homes locally, particularly for those who are currently the least able to afford to buy. We are pleased that the government has listened to our concerns and that 25% of affordable homes will be First Homes, which is considerably lower than the 40, 60 or 80 per cent options outlines in the earlier consultation. However, we remain concerned about the impact of a top-down arbitrary target on the ability of councils to meet local housing needs and will be raising this in our consultation response.
40. We have continued to lobby the Government to support the delivery of 100,000 new social homes per year. In our June 2020 [post-pandemic Housing Stimulus Package](#) we noted that investment in a new generation of social housing could return £320 billion to the nation over 50 years, and as an economic stimulus will grow stronger post COVID-19.

New method for the standard method of assessing housing numbers in strategic plans

41. Analysis of the new method reveals that in terms of housing numbers there are some stark impacts in different parts of the country, and across different rural/urban areas. This demonstrates that a nationally set formula will always struggle to reflect local need. Simply raising the numbers without incentivising or compelling developers to build will not lead to more homes. The method also does not appear to support the Government's ambitions to level up and build more on brownfield land in urban areas.

Next steps

42. Officers will use members' comments to help shape forthcoming EEHT led workshops being held with members and officers, as well as conversations with MHCLG and our response to the consultations.