

Levelling Up, Housing and Communities Committee

Oral evidence: Reforms to National Planning Policy, HC 1122

Monday 13 March 2023

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Members present: Mr Clive Betts (Chair); Bob Blackman; Mrs Natalie Elphicke; Ben Everitt; Paul Holmes; Andres Lewer; Mary Robinson; Nadia Whittome; Mohammad Yasin.

Questions 1 - 55

Witnesses

[I](#): Richard Blyth, Head of Policy, Practice and Research, Royal Town Planning Institute; Kate Henderson, Chief Executive, National Housing Federation; Councillor James Jamieson, Chairman, Local Government Association; and Sam Stafford, Planning Director, Home Builders Federation.

Examination of witnesses

Witnesses: Richard Blyth, Kate Henderson, Councillor James Jamieson and Sam Stafford.

Q1 **Chair:** Welcome, everyone, to this afternoon's session of the Levelling Up, Housing and Communities Select Committee.

This afternoon, we have our first evidence session on reforms to the national planning policy, and certain changes the Government have put out for consultation. This afternoon we will look particularly at how those changes may affect housebuilding and the number of houses built in this country.

We have a wide-ranging panel—we will come over to them in a minute—and they are all very welcome this afternoon. Before I do that, I will ask all members of the Committee to put on record any particular interests that they may have that are relevant to this inquiry.

I am a vice-president of the Local Government Association.

Mohammad Yasin: I am a member of the Bedford Town Deal Board.



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Nadia Whittome: Just as on the register.

Bob Blackman: I am a vice-president of the Local Government Association and I employ councillors in my office.

Mrs Elphicke: I am a vice-president of the Local Government Association and a director of the Housing Finance Institute.

Paul Holmes: I am a commissioner of the Key Worker Homes Scheme operated by a company called Skyroom London Limited.

Mary Robinson: I employ a councillor in my office team

Ben Everitt: I employ a councillor and I am a vice-president of the Local Government Association.

Chair: Thank you all. Before I start with the questions I will go over to our panel. Perhaps you could say who you are and the organisation you are here representing today.

Kate Henderson: I am the chief executive of the National Housing Federation. We are the voice of housing associations in England.

Richard Blyth: I am a chartered town planner and head of policy for the Royal Town Planning Institute.

James Jamieson: I am chairman of the Local Government Association and also a councillor in Central Bedfordshire.

Sam Stafford: I am a chartered town planner. Since July of last year, I have been planning director for the Home Builders Federation and I had a career in planning and housebuilding before that.

Q2 **Chair:** Thank you all very much for coming this afternoon to discuss what is an important subject. Initially, we have seen a lot written about the Government's processes and the reaction to them. I am going to begin by asking a general question about uncertainty.

Once you start making significant changes and proposing significant changes which may not be implemented, it leads to a lot of authorities saying, "Hold on a minute. We are not sure what the end result of this is going to be so let's wait and see". We have been told that at least 19 local authorities—I have heard lower figures but also higher figures—have put on hold their local plans to wait and see what comes out of these proposals. Is that an issue of concern that will feed through not just to this year but to future years if it becomes a trend?

Kate Henderson: For too long, housing policy has been characterised by piecemeal policies and contradictory reforms, and unfortunately the NPPF consultation is no exception.

We had some very encouraging remarks from the Secretary of State before this Committee about the importance of both social housing and in



particular social rented homes, but unfortunately in this consultation we see short-term political choices underpinning planning reforms. We are concerned about that.

The reason we are concerned when we look at these reforms is to do with the context of the housing crisis. There are currently 4.2 million people in need of social housing in this country and one in five children is living in an overcrowded, unaffordable or unsuitable home. Against that backdrop of acute housing need, planning reforms must, at a bare minimum, protect the delivery of affordable housing. We do not think the NPPF consultation passes that test.

Q3 Chair: We will come back to look at social housing and affordable housing specifically.

Richard Blyth, delays: is that what you are getting back from your members?

Richard Blyth: Yes and let's just scroll back a bit. There was a very extensive Government consultation on planning in October 2020. Over 40,000 people responded to it, but then we did not hear anything about it for a long time. The stop-start has applied to a period of over two years and there is a combination of factors here. There are both the changes to the NPPF that this inquiry is about but also the wider changes to running the planning system. Our recent response pointed out that the authorities—I think there are 15 of them—that are raring to go with producing new local plans are fearful of doing so because there will be a new statutory process for producing local plans and they would not want to do any work and then find they had to tear it up. So, there's the Levelling-up and Regeneration Bill, as well as the changes to the NPPF, and also the document published just before Christmas referred to a shopping list of further changes to national policy that we could expect to see, possibly later this year. Today we wrote a letter to the Minister saying that we are quite concerned about this pent-up demand for long-term changes to the NPPF, particularly on climate and transport, which we have not even seen any details of yet; we have only seen information about housing supply. Again, it is piecemeal. We are getting one topic today and potentially another topic in the autumn.

Q4 Chair: James Jamieson, your members are going to have a challenge with this, aren't they? What sort of feedback are you getting from them? Is this actually going to help them to produce local plans?

James Jamieson: Our members and I are very keen on plan-led development as opposed to ad hoc, random development across the country and therefore we are very keen on the concept of local plans and making local plans easier and quicker to deliver, for those local plans to have teeth and making it harder for people to ignore them. That is important and there are a number of things in the Bill that certainly move that way. We have to wait for all the detail to come out in the guidance and the planning policy statements. However, it is inevitable, when you



have notable changes to planning law that people will not know what is happening and therefore will make judgments about whether it is better to wait and have certainty or whether, in some cases, it might be advantageous. Furthermore, this is overlaid on the issues we have with water and nutrient neutrality, which are causing delays by themselves, and we hope that there will be some adjustments for them. It is almost an inevitable consequence of making a change that people will have to wait.

One thing we have not done with planning changes throughout my time, over the last 14 years, is thought of good transition arrangements. I speak as an authority that spent I think 12 years getting its local plan through and a big chunk of that was as we went halfway through, there would be a change and we would have to go two steps back. I think it is very important that whenever we have planning changes that if you are in the process of making a local plan and if you have committed to a certain path based on the rules at that time, you should be able to go ahead on the rules at that time. I appreciate that at the moment there is an implication about when you have made the decision, but the way that planning policy works in local plans is that you go out for consultation and make the decision after that, which could be six to nine months later, but the commitment would have been made six or nine months earlier, not nine months later. As it is now, you would find that you would have to change the plan because you would not have made the decision earlier and you would have to go out for consultation again. So transition is very important and I think would address some of these issues, but not all of them.

Q5 Chair: You make an interesting point, James. Has the LGA suggested to Ministers that the point at which any change comes in that affects the local planning process should be at the point of consultation and, once consultation has started, the plan should continue based on the old NPPF or whatever the relevant policy guidance?

James Jamieson: We have come up with slightly different wording but in essence say that when you commit to something, it should be judged against the rules at the time.

Q6 Chair: What does “commit” mean? What point in the process is committing?

James Jamieson: My example is about when you have not made the decision until after the consultation and you formally adopt the decision. However, if you have gone out to consultation, you have committed to it and if you are going to change it after that, you have to consult again. That is my point.

There are various other little niggles in the system, we could define it better and I would be happy to come back to you on that in writing.

Chair: That would be helpful.



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James Jamieson: But that is the key point. Too often, it is about when the decision is made rather than having to go through the loop yet again, which can add a year.

Q7 **Chair:** Sam Stafford, we will come back to targets and how we arrive at the precise figures in a minute but how have the housebuilders reacted to the consultations and proposals?

Sam Stafford: I think you can draw a direct line from the present crisis in local plan-making—I don't think it is an exaggeration to call it a crisis—to Boris Johnson's possibly off the cuff, possibly not off the cuff, remarks at the Conservative party conference in October 2021 about building the homes we need on brownfield land. From then there has been a sense that change is coming and as we went into 2022, questions about targets and a greater sense that some change was coming started popping up in Parliament more frequently. Lichfields reported in April 2022 on the 11 local plans that had been delayed, stalled or pulled from examination at that time, and that included allocations for about 70,000 homes. This talk of targets reached its nadir with Liz Truss's Stalinist top-down rhetoric over the summer, and that trickle of local plans being pulled became more of a torrent. Then the brouhaha before Christmas around the LURB amendments was the natural consequence of all of that.

Lichfields reported in January on 38 local plans that had been pulled by that time, so a torrent becoming a flood, and those plans included allocations for at least 150,000 homes, homes that HBF members are not now preparing planning applications for.

The current running target of local plans that have been delayed is 52, but that does not include the unedifying spectacle of the leader of Windsor and Maidenhead Council writing to the Secretary of State recently about a recently adopted plan and what can be done about the allocations.

That all has a day-to-day, practical impact on the ability of HBF members to make planning applications.

Chair: Right; we come on to national housing targets now.

Q8 **Mrs Elphicke:** The Government have a target to build 300,000 homes a year by the mid-2020s and we are now in 2023. If the proposed changes on housing supply in the NPPF are implemented in full, to what extent do you think that makes it more or less likely that that target will be met?

Sam Stafford: The 2012 NPPF was an emphatic commitment to boosting the supply of housing. The document that was out for consultation until relatively recently is almost the polar opposite. Of 58 or so questions about policy provisions, there are possibly three that with a charitable definition could be considered in any way supportive of new development, community-led development, retirement housing, older peoples' accommodation and—raises eyebrows—mansard roofs. Every other policy provision relating to housing is designed, deliberately or otherwise, to



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either trigger the presumption in favour of sustainable development on fewer occasions, therefore making it harder for HBF members to secure resolutions to approve from planning officers or win at appeal, or to allow for local authorities to plan for less than their self-generated housing need. On that basis, I would answer emphatically that the provisions contained within this document will make it very much less likely that we will get anywhere near 300,000, let alone the 230,000 built last year.

James Jamieson: I am going to disagree with my colleague. Obviously we wait to see the detail when all comes out, but we have had a free for all since 2012 in many respects and it has not delivered the numbers that were anticipated and claimed by a number of people.

I go back to my opening statement. I genuinely believe in a plan-led development scenario where you can plan where the schools and the infrastructure are, you can plan communities, and you can create place. One of the biggest things we must try to do in this country is creating great places for people to live, work and have their leisure and therefore the public to be more supportive of housing development. At the moment, the public is generally very negative about development. People cannot see the benefit to their communities of some developments that I could take you to, where there is no doctor's surgery, too few school places and overcrowded roads. It is not exactly surprising. I accept we will always have NIMBYs, but I think there is some justification.

So, I am very much in favour of plan-led development and if you are going to have plan-led development, the plan must have teeth. That means that if you allocate enough sites in your area to meet your need, there should not be a presumption in favour of any speculative development in that area. The plan needs teeth and you need to be able to go to the community and say, "You have made those difficult decisions to allocate for X number of houses, which is your need, you have an element of protection, you have an element of knowing what is coming on, and that will increase support.

There are a number of elements in the Bill that would encourage developers to build out and I think that is important. Our analysis is that there are a million or so planning permissions available at the moment and about a million or so allocations that do not yet have planning. At 300,000 a year, that is seven-plus years. If you added the one, two or three-home developments that would not be part of an allocation and conversions, you would be beginning to talk close to 10 years. I am not convinced that there is a shortage of planning permissions or allocations; the problem is that we are not building out, we do not have the infrastructure and there are various reasons—maybe very good reasons—why developers are not building in certain places, for instance nutrient neutrality, that we have to address, so we need a more systematic way of doing this. That means that the public, councils and all partners need to know what the rules are, they need to understand the rules, we should not have planning by appeal and certainly this Bill moves in that



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direction. As we move in that direction and deliver more infrastructure, as we develop better places, we will ultimately get higher housing delivery.

- Q9 **Mrs Elphicke:** Richard Blyth, do you think that if councils are in control of their plans they will be bringing them forward, as James Jamieson has described? Or do you agree with the case that Sam Stafford made about this leading to a collapse in available planning permissions?

Richard Blyth: The thing that matters is the number of homes rather than the number of permissions. There are a number of threats to maintaining housing supply, one of which is the state of the economy, and we have also been hearing about tricky environmental issues such as nutrients and water quality. Also, it seems to our members that it is inconsistent to have a housing target of 300,000 and introduce the kinds of changes that the Government propose to housing land supply.

Speaking personally, I believe it puts the profession in a very difficult position. It seems on the one hand that there is aspiration and on the other hand, no tools to achieve that aspiration. That is particularly difficult in places where hitherto there was some support from the Government for things such as moving land from greenbelts and increasing density in urban areas. It is clear now that those things do not have government support and also there are no apparent means in the NPPF as proposed to account for the shortfall that comes if you are in an area whose housing target cannot be met because of the constraints that the NPPF upholds.

- Q10 **Mrs Elphicke:** You have identified the issue of density and greenbelt is another and also, perhaps the duty to co-operate, which I think has been quite important for some councils. Were you surprised that there was no exception for areas with nutrient neutrality and water issues? Do you think that should be in the NPPF?

Richard Blyth: That is an interesting suggestion. It is not something that I have thought of. We are very concerned that certainly up until this draft NPPF, there were areas of the country between a rock and hard place with the councils being told they cannot develop the permissions they want to develop and on the other hand, they have to meet their targets and therefore, what will happen is that appeals may be granted on unsuitable sites within the district but outside a catchment that has been subject to a moratorium. That seems highly unsatisfactory. The issue of loading the solution to our nutrients problem on the housebuilding industry seems quite disproportionate.

- Q11 **Mrs Elphicke:** Kate Henderson, within the target of 300,000 homes there is no mention of the proportion that should be affordable. How do you feel about the achievability of the target and what it might mean to the supply of affordable housing?

Kate Henderson: We would like to see a longer-term, coherent strategy for how we are going to meet housing needs in this country. The evidence we have produced alongside the homelessness charity, Crisis,



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shows that we need 145,000 affordable homes each year every year for the next decade, of which 90,000 should be for social rent each year, every year for the next decade if we are to meet housing need.

We are concerned about the proposals in the consultation that would lead to a significant reduction in the delivery of affordable housing. Ending housebuilding targets without a viable alternative will only exacerbate the housing crisis but it does not have to be this way. I absolutely support what Councillor James Jamieson said about supporting a plan-led system, but for a plan-led system to work, we have to have full plan coverage and plans need to be based on objectively assessed housing need, including identifying the need for affordable housing in each local authority area. We have huge concerns about the removal of housebuilding targets.

Q12 Mrs Elphicke: Would each of you comment quickly on the five-year housing supply removal? If under these proposals councils are now back in charge of setting these plans and having much more control over what the relative numbers should be, and if greenbelt is effectively excluded and excepted from having to be brought forward for housing under the plan, should local authorities still be required to have the five-year housing land supply, given that that would mean something very different from what it means today? I would be grateful for your short thoughts about that.

Kate Henderson: We support retaining the five-year land supply and that land supply should be in accordance with what is in the local plan, which should be based on objectively assessed need for affordable housing. Five years enables confidence in the community about what is going to be delivered and for those organisations that are investing to build the homes, the communities and the necessary infrastructure. That is why we support retaining a time horizon of five years.

Regarding greenbelt, one thing is a bit confusing. Within the consultation, there is a clarification about protecting greenbelt but we do need to have a more nuanced conversation about sustainable growth and where it is going. We support brownfield first, of course we do, and we should make best use of land that has been developed previously, but we cannot meet our housing need on brownfield alone. We do need to use some greenfield sites. Greenfield does not automatically mean greenbelt. They are different things. This is not a comprehensive look at how and where we plan development. I understand the politics behind the protections but a more nuanced debate about where the most suitable locations are would be very welcome and is not in this consultation.

Richard Blyth: It is a complicated point but in the consultation the Government ask, "Is it all right for a local authority, once its plans are adopted, to be not held to account on a five-year supply for a period of grace of maybe three years?" I ought to know the difference.

We support that because we sympathise with the feelings of local communities that once they have gone through I hope not 12 years but



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even if it is only four years if you have gone through what can be quite a politically traumatic process to get to an adopted local plan, it is extremely frustrating for communities to then be told a week later, "Oh, well, it doesn't count now" because on a technicality, if you like, the district no longer has a five-year supply. Therefore, we support the Government's proposal to bring in a grace period on certain conditions. One condition is that local authorities must have enough people to do the bean counting. You are all aware of the crisis in local authority staffing in planning departments. The very sad thing among the staffing problems has been the decimation of monitoring services. You do need a good way of telling what is going on. Secondly, we have some sympathy with the development industry saying that the problem at the moment is that a local authority is judge and jury on the issue of the five-year supply and therefore, if you are going to pray this grace period in aid, there must be a way in which someone else—maybe the planning inspectorate or some other body—can say, "Yes, the figures are correct and the authority can proceed with the grace period; it is not making it up".

James Jamieson: Several points: one is that I think the local plan is very important. It identifies, depending on the authority, at least a 10-year, if not 20-year, supply of housing for that area. It is not as if when you have an adopted local plan that someone has not thought through what is a supply and available which will be far in excess of five years in terms of allocation. The issue—and you quite rightly address it—is that 12 years to get a local plan through is far too long so we do need the Bill to get that down to two years, which is its ambition and which will be very helpful. We can talk about that later.

The key thing here is how can you hold a local authority to account for a five-year land supply when we do not build houses? We do give planning permissions, we do allocate sites and I think it would not be unreasonable to say, "Have you allocated an excess of five years?" Anyone who has a local plan will have allocated 10 years or more. I take your point about having the resources within the planning department to go through plans adequately in a reasonable time and so on but unless you give a local authority the tools to make developers build, you cannot hold them to account. I talk to my local builders. At the moment they will tell you, "We reduced our building rate because the economy has gone down". That does not change the five-year land supply calculation and the local authority has no power over that.

What we can do is deliver allocations and planning permissions. We do that through a local plan. If we have a good local plan, that should be adequate, with caveats around a few things about ensuring we have adequate planning staff and so on. Of course if you have a plan-led development with less hostile and speculative applications and you make the local plan easier to get through, it means you have more planning officers. For example, when we were doing our local plan for Central Bedfordshire, something like 50% of officer time was spent dealing with the local plan and speculative developments. It is very onerous for



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planners. A combination of making the process simpler, quicker, easier and more consistent will help with getting the planning system better. Obviously there is a resources issue, particularly to your point around monitoring and enforcement, and we have responded to say that we would like to see higher planning fees.

Sam Stafford: I think this provision speaks to a higher bar for non-planned development to get over, which I think is a laudable endeavour. You will not find anybody who is a greater champion of plan-led development than I am, and this provision specifically should not be too much of a deviation from the status quo because the NPPF already requires an authority to be providing for a five-year housing land supply at the point of a plan being adopted.

That said, Savills found that of 95 authorities that adopted a plan in the last five years, at the end of last year over one-third could not demonstrate a five-year housing land supply, which suggests that if this provision is to be taken forward, the scrutiny being afforded at examination to that immediate 0 to 5-year trajectory needs to be significantly stronger.

I would like to dwell, though, on the narrative around the presumption that as Paul Smith wrote in *Housing Today* relatively recently, it seems to be associated with some kind of technicality or some kind of loophole. Two points about that: it is within an authority's gift to have an up-to-date plan and to be maintaining a five-year housing land supply. Those things are within an authority's control. The demonstration of a five-year housing land supply is arguably nothing more than a sensible monitoring mechanism over the policies that are sought to be adopted and where a presumption is triggered, it is in favour of sustainable development. With respect, it is not a free-for-all and arguable inspectors at appeal are granting planning permissions for sites that would and should have come forward through a local plan were an authority progressing one.

- Q13 **Chair:** One point before we move on: I am interested in the 300,000 target. If that is going to be a real number, do the Government not have to have an idea of every authority's housing targets and that when they add them up, they add up to 300,000? Otherwise, we do not have a chance of hitting the target, have we?

Richard Blyth: Yes.

Chair: Okay. Nobody is saying no. Okay. Fair enough. We have got general agreement. Nadia Whittome will come in on issues of the standard method and urban uplift. Whether we will get as much agreement there, I don't know. Let's see.

- Q14 **Nadia Whittome:** This is a question for everyone but I will start with Richard Blyth.

Do you think making the standard method an advisory starting point is the right approach or are there other ways that the standard method



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could be changed? Do you predict that that change could result in fewer houses being built?

Richard Blyth: It was brought in to avoid the situation where you might have 300 different methods so I think it is a good thing to have.

I am concerned about things like the exception to it for the so-called popular cities. I do not quite see any basis for the 35% additional requirement for the popular cities because I presume that the statistics behind the standard method are such as to take account of the needs of all the cities, so I do not understand why the populous ones are somehow exempt from the application of the standard method in its straightforward form. Furthermore, the difficulty with that is that the ability of those cities to act in isolation to meet that additional 35% is made more difficult by the approach to the greenbelt now being adopted in the NPPF and the approach to area character and the difficulty of securing any city region-wide approach to meeting housing need. Many of those populous places are the most constrained possible places due to greenbelts and also being surrounded by areas that are not in the same control, different councils, so I do not understand how they are to meet this addition on top of the standard method.

James Jamieson: Several points, if I may: first, is it helpful to have an advisory number that councils can use? Yes, but that number has to be generated in a fair and reasonable way. I would even go so far back as to question ONS data because ONS data, if you look at the way it is done, is largely a forward projection of what has happened in the past—if you have built lots of houses, you will find your projection is fairly steep and if you have built very few, it is not. Quite frankly, I don't know people who would know the difference, say, is Stotfold in Bedfordshire or is it in Hertfordshire? Of course, I know it is in Bedfordshire but a house hunter from London would not. Yet you would have a very different projection by literally moving a mile. So I think we need to think of a much better methodology for calculating that number.

I think once we have that number as an advisory, I would like, in a local plan, if an authority is willing to take that number, for it to be taken as read and not challenged—and it is not developers that challenge; it is land promoters and land owners. A lot of my comments about people gaming the system are about land owners and land promoters. Most of the time, by the time a developer has spent several million pounds on a site, they want to get on with it. I think that is important.

I also think if you are on a system where you have a legal challenge, if you are in an area of, say, farmland that my great-grandfather bought for tuppence halfpenny, I have zero holding cost and if somebody comes along and offers me £0.5 million an acre and promises me to do all the hard work in exchange for an option, there is a huge economic interest for that person, and me, to challenge the system. If I am in an urban area with a difficult brownfield site that currently has commercial land on it that is worth £1 million an acre and it might be worth £1.25 million an



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acre as housing land, I just don't have that financial incentive to challenge the system. I do think, therefore, that we have an asymmetric situation when you talk about an inspector or whoever determining these things. Of its very nature, land already has a relatively high value and it is not worth going through the difficulty of challenging.

Therefore I think we need to think through that when we come up with numbers and when we ask an inspector to make a judgment because quite frankly, you will not be challenged in areas where it is difficult to build and yet many of us would like people to build in the difficult areas, existing brownfield sites where you have to do some consolidation, where you are near transport infrastructure, and yet the whole economics encourage you to go to a nice greenfield site.

Another point that I want to touch on is a more holistic approach. One of the problems we have in the planning system is that certain things are just not allowed. We have talked about greenbelt and I am not saying we should or should not build on greenbelt and we have talked about nutrient neutrality. If you talk about Historic England, these are things where it is a no—I can't remember who made the comment about that—and as a result, we end up picking potentially worse sites, rather than being able to consider everything in the round and say, "There is this negative about this site but it may be worth spending money on sorting out the nutrient neutrality on this site and rather than building on this beautiful green field, which just does not happen to be in the greenbelt—" those are things that we find quite difficult at the moment because there are some fairly strict rules about what you can and cannot do rather than considering things in the round.

Kate Henderson: We have serious concerns about the proposals to amend the NPPF to make it more flexible and advisory in the context of delivering the homes that we desperately need. Introducing an alternative method, which may be used to justify not building homes in an area, would go against the Government's stated aim of 300,000 homes a year. No evidence has been offered in this consultation or elsewhere to support allowing geographical or demographic factors as exceptional circumstances to not meet objectively assessed housing needs. It would be good to see that evidence if it does exist, but at the moment, we do not know the evidence on which this is being made out. We are worried that this is going to lead to undersupply of much-needed homes, particularly at a time when we have an acute housing crisis.

Q15 Nadia Whittome: Sam Stafford, what do you think, particularly on the last question about your prediction about how this could impact the number of homes that are being built?

Sam Stafford: There are three broad ways of coming to the 300,000 figure. There is a genuinely Stalinist top-down way, which was floated in the 2020 White Paper, which is that the Government gives a local authority a policy on a figure and says, "Get on and deliver that number of homes". You could add some nuance to that by having some boffins



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near Oxford or Cambridge University run everything the Government want to do over the next 15 years through a computer and that comes out with a number rather than it being genuinely top-down, but let's say that is off the table just for the minute.

The second way would be the OAN method that I think Kate Henderson mentioned, the objective assessment of need, which was the case post-NPPF 2012 and up to the standard method being introduced in 2018. That would be a subjective assessment of the strategic housing market area report which was typically the basis of it. That is empirically sourced local data based upon local priorities, local demographic patterns and so on. The issue with that was that it was highly subjective and the subjectivity led to delays in local plan-making. Local authorities might assume that the glass is half empty on the job-creation front and the development industry might make the point that with a glass half full, you might need to plan for more jobs and more homes and then an inspector was expected to deal with that at a local plan examination.

In a 2017 White Paper, there was reference to authorities not being able to duck their requirements and the introduction of a standard method, trading that local sophistication for a blunter but simpler spreadsheet-based calculation based on household formation. Now the problem with the current standard method is that it is not fit for purpose. It is based on projections that bake in underperformance, so head further downwards, and the reason that the 2014 household projections are still being used is that if you plug the 2018-based projections in, you only get a figure of 160,000 and still the 2014 data is being patched together with this arbitrary cities uplift to get it anywhere near 300,000.

Now one of the principal disappointments of this consultation is that it does not seek to either go back to the pre-2018 OAN but deal with the issues that authorities faced in that 2012-18 period with a tighter methodology for how to go about it and defining housing market areas, because Leicester's housing need isn't Leicester; Leicester's housing need is a travel-to-work area; a greater economic geography housing market area. It doesn't deal with those kinds of issues; it doesn't go back to there and it doesn't try to put the standard method on a firmer empirical basis, which could be, say, housing stock. If each area were to plan for 1.2% housing growth of its existing stock, you would get to 298,000 and you could do that with the stroke of a civil servant's pen because that is just PPB to PPG.

However, the consultation does not tackle either going back to OAN or putting the standard method on a robust footing. It simply, largely, is designed for local authorities to plan for less than their current standard method while at the same time undermining its credibility, which is arguably the worst of all worlds.

Q16 Nadia Whittome: Very helpful; thank you.

James Jamieson, currently what sort of exceptional circumstances might



local authorities use to justify using an alternative to the standard method?

James Jamieson: I go back to one comment I made earlier: I think having a number that an authority can use and then say, "This doesn't work for us for these reasons" is quite helpful because it does make local planning easier, because if it is a sensible number, properly calculated, one can just go, "Right, that's it" and hopefully the planning inspector is obliged to go, "Tick; your number is right".

However, the obvious thing is if you are surrounded by greenbelt, it is difficult. If the population data is wrong—the comment that was just made about employment, if you disagree with employment trends; the impact of student population, which is quite significant in some areas; immigration trends; affordability of homes—so there is a range of reasons that authorities should be able to use to seek to justify why that number is inappropriate for them and there is a better method of doing it. However, I think that we would all think that having a good method for an advisory number would be very helpful in the first instance and then genuinely give people the opportunity to say, "This is why it does not work here".

Q17 **Nadia Whittome:** Thank you. Does anyone else want to respond to that question or, indeed to the evidence?

Sam Stafford: I would say that the NPPF as already drafted does say that the standard method is a starting point and that authorities can plan for fewer or more, subject to the demonstration of exceptional circumstances. By and large it is an end point and not a start point and I would have concerns having regard to how exceptional circumstances have been described in the consultation material. There are factors as localised as islands with a high percentage of elderly residents—I cannot think where that could be—and university towns with an above-average proportion of students. If that is how broadly exceptional circumstances are being drawn, everywhere has exceptional circumstances and nowhere gets anywhere near meeting the standard method.

Q18 **Nadia Whittome:** Turning specifically to the urban uplift now, first do you think that has been an effective tool so far? Secondly, do you think the proposed NPPF guidance to prioritise brownfield sites when applying the urban uplift is helpful?

Kate Henderson: I think brownfield development and urban uplift are good approaches. We want to see the best use of our already developed land and that is hugely important in meeting housing need, as well as to the economic viability of our existing towns and cities. Our big challenge is that there is not enough brownfield land so this is only part of the picture. Even if we were to develop out every brownfield site, that would only meet around one-third of our housing needs over the next 15 years. So it is important but it is only part of the picture.



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Richard Blyth: I point again to what I said before, that if you have a standard method, it ought to apply everywhere. You cannot start having exceptions to it that include what seems to be arbitrary additions to the figure. It is very difficult for many of the places that have been earmarked for this to respond to the challenge because of the difficulty of having to plan each district on its own and many of these cities are quite constrained.

There is also a side link to the Government's levelling-up agenda because a lot of the populous places are in areas that the Government have in their White Paper indicated they wish to see levelled up, and that requires action across the whole of government to increase things such as job opportunities in northern cities, for example, and unless all of that is happening, there may not be people wanting to provide this uplift; it would need to be part of a national policy, going back to what the Chair just said. What number do we want per authority?

James Jamieson: Urban uplift is a crude tool. I think we were talking about getting an algorithm that works and if you have a proper algorithm, you would not need an urban uplift; you would calculate a sensible number on all factors. Yes, it is clear that we would all want brownfield first but completely accept the point that there is a significant amount of brownfield where there is no demand because economic growth is not being generated. You cannot do this in isolation. You have to think about how you are going to build significant numbers.

I know from talking to Sir Richard Leese, former leader of Manchester City Council, who had quite a lot of capacity to build houses but needed economic growth alongside it. We cannot look at these things in isolation.

Sam Stafford: At a meeting of the Greater Nottingham Joint Planning Advisory Group in June last year, councillors agreed that the uplift was arbitrary and unevidenced and so, it was stated, "did not qualify as an exceptional circumstance for any of Nottingham's neighbours to release their own greenbelt to contribute towards an emerging strategic plan". That I would describe as cocking a snook at the urban uplift.

According to Turley, approximately 93% of it would go undeveloped if all of the 20 towns and cities that are subject to it adopted that approach. As far as I am aware, and I might be wrong, only Leicester has taken a positive approach to it. London's standard method figure is 80,000 so you can already write off 50,000 from the 300,000 target because London will not get anywhere near 80,000. Directing development towards the most stable locations as a point of principle is more than sensible planning but it does not have regard to the type and tenure that are required in these places. It does not have regard to the availability of brownfield sites, as has been said.

Where you get to is that you can disregard 50,000 in London because it is just unachievable and if you look at the other 19, only Southampton and Leicester are not constrained by greenbelt and where there are



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constructive working relationships between authorities on a cross-border basis.

While there is that focus on the urban uplift in the NPPF, by dint of nebulous character areas, an effective moratorium on future greenbelt release and by amending the positively prepared test of soundness, such that authorities do not have to demonstrate that they have spoken to their neighbours about distributing need, the other cities will just not meet it. I think that if any of our esteemed peers in the Lords could get behind the making of special development strategies mandatory rather than voluntary, you could deal with these cross-border issues in the round, deal with greenbelt in the round and arguably, conceivably, extract land value from greenfield sites that would bear it in order to deal with brownfield sites that would not otherwise come forward. That tier of planning is the answer to planning at a city scale.

Chair: Moving now to issues around examining plans and the duty to co-operate.

Q19 Ben Everitt: I will try to be brief but before I do that, I would like to go quickly back to Richard Blyth on a point he just made to Nadia Whittome about the link to levelling up and that wider need to look across Whitehall and into what is going on in communities. The Government do have an extensive set of policy levers to stimulate demand in areas where, to take James Jamieson's example, the ONS projections will not show you growth. We know through the High Streets Fund, the Levelling Up Fund and the Shared Prosperity Fund that there is additional investment in what we call levelling up, so opportunities for people who live in those left-behind areas, and those opportunities are in the form of jobs and people who have jobs need to live in houses. Is there any hope of joining this up within the planning system to get to a point where we can have targets that affect the genuine future need as opposed to a projected need based on historic levels of housebuilding, which as we know is not very great in left-behind areas?

Richard Blyth: I would like to think so. It is important that all Government Departments pull together. What you did not mention is Government's commitment to try to more fairly spread around their expenditure on research and development. Also, we have all heard concerns about the Government's quite longstanding priority of transport spending in London and the south-east. There is quite a long tail of things to put right in terms of levelling up. I would also add the environmental dimension. Quite a long time ago—10 years—the RTPI published a report with the snappy title of "Map for England", the conclusion of which was that if you listened to what was then called something different but is now Department for Levelling Up, Housing and Communities' view of which parts of the country should grow fastest was incompatible with Defra's view, which was based, for example, on things such as water supply, water quality and coastal erosion. The man in the street might be forgiven for saying, "Well, Government, what do you want us to do? What



part of you is saying it is environmentally impossible to expand, particularly some of the east of England region areas and on the other hand, this past-based projection was putting a great deal of emphasis on the rapid growth of areas such as Cambridgeshire, which was not compatible with the environmental situation?" So either you have to do something about the environmental situation, such as maybe invest in a canal that would bring water to that area or you need to do something about encouraging greater support for research institutions in other parts of the country but it is not clear at the moment that there is any mechanism other than simply ONS's view of how many houses you last produced, which is quite limiting.

Q20 Ben Everitt: Thank you. I think it is probably worth getting in touch with Homes England and asking their thoughts on this. Thank you, Richard. I am going to talk briefly about examining plans once they are ready to be made and then a bit about the duty to co-operate. James, I will start with you. What would be the effect of removing the requirement for local plans to be justified as part of that test of soundness?

James Jamieson: It would be helpful. If I could use the example of St Albans when their plan was examined, there were 51 barristers there to argue the case of various landowners who were not there. That is unhelpful. I used to talk to Nick Forbes, who was the leader of Newcastle about this. He wouldn't know what a barrister in a local planning meeting was because there wasn't an economic driver there. The St Albans example was daft. We have local plans that are tested very aggressively in places where there is a big economic incentive and therefore anything that makes it simpler and clearer with fewer points to challenge is the better because ultimately we want a good local plan. If that local council, which is the representative of their residents, thinks that this is a good plan that ticks the boxes in terms of housing numbers, compliance with the environment and so on, why not believe in democracy and accept it?

My second point is that some serious thought should be given to not allowing landowners and other protagonists to keep biting at the cherry. If you object to this local plan for a reason, great. Put in a written submission on all the reasons why you find it at fault and if you as a barrister cannot summarise it in 20 minutes, you are not worth your £10 grand a day or what barristers are being paid. Yet we have them challenging day after day. Is the number right? Is the environmental assessment right? Is the nutrient neutrality right? Is this right? Is that right? It makes a very long and protracted argument. They could put all that in a written submission and it would make the whole process of examination fairer, quicker and easier.

Q21 Ben Everitt: That sounds like something we could get behind but is it achievable? That is the problem.

Sam Stafford, in your evidence earlier you mentioned the dangers of just doing planning by appeal and I assume that your members are thirsty for certainty. What do you make of James Jamieson's points?



Sam Stafford: I have some sympathy with his view. I think that the counterpoint would be that the drive for plan coverage should not be at the expense of the quality or the robustness of plans. What we are talking about insofar as the justified test is it being based on proportionate evidence and considered against reasonable alternatives. They are pretty fundamental planks of plan making and I would respectfully contend that where an authority does run into the rocks at the latter stages of an examination, it may be because it has not demonstrated that its proposed spatial strategy, for example, is the most appropriate. To be fair, there was a diminution there; it no longer has to be the appropriate strategy, just an appropriate strategy but even then, has it been tested against reasonable alternatives and based on sound evidence?

Speaking personally, professionally and on behalf of members, I think there would be some concerns about a dilution in the rigour with which plans are examined.

Q22 **Ben Everitt:** Would risk about the quality of the plans outweigh the certainty in the eyes of your members?

Sam Stafford: I would say so, yes. Especially if, bearing in mind that the five-year land supply provisions are disapplied such that if that plan is not sound if it is not allocating delivering sensible sites to deliver in the short to medium term, the remedy for dealing with that could be longer than five years away.

Q23 **Ben Everitt:** Richard Blyth, do you have any thoughts on that point? The onus there in that piece of evidence was for the planners to provide a quality robust plan. Is this shuffling everything around to the planning departments again and just increasing the risk of planning by appeal?

Richard Blyth: I think we need to step back a bit and question why we have a planning system. It is quite strange that since the 2004 Act, the purpose of the examination in public has been the gift of Ministers and not, potentially, the gift of this House. It is quite strange that we say "examine a plan" but we do not say why you should examine it. At the moment, this is all we have, which is the statement that plans must be justified and it seems very important to me that if the state, local or national, is going to interfere with private property rights it should do so on the basis of evidence and not just on the basis of "we just know better". That is not good enough.

Certainly my profession would be right behind the idea that plans need to be the right plans; they need evidence. You could call it justified, you could call it evidence-based, but that does need to be a main plank of policy. I think the confusion is between the volume of evidence and the content of the justification. It would be great if we could have fewer pages but that does not mean that you can waive the requirement to demonstrate that you have an appropriate strategy.



Going back to the resources point, one of the worries is as particularly the local plan-making parts of planning departments have been so severely affected by cuts, we have come to a situation where it is easier to commission and hurl around large quantities of evidence than it is to look very carefully at what evidence you need and be a bit more sophisticated in choosing it. There is a bit of a consequence. There may be a little bit of a danger of being risk-averse on both sides of the debate, which can then mean that it is easier to commission thick volumes of evidence. One way around this is that we think the inspectorate could be clearer in indicating what evidence will be necessary for an inspector and, therefore, what kinds of volumes of evidence will not be so necessary.

Q24 **Ben Everitt:** Do you suggest a more proactive assessment process as part of the plan-making process by the inspector?

Richard Blyth: Yes. I am not convinced that removing a word from the NPPF will necessarily mean that local planning inquiries are faster but, as a political principle, if we say that we do not mind if plans are backed up by evidence, it is quite worrying as a way forward.

Q25 **Ben Everitt:** There was not a suggestion that they would not be backed up by evidence. I am sure that after Kate has made her points we can go back to James. It is probably fair to give him right of reply on this. Kate, over to you.

Kate Henderson: Following on from what Richard has said, a local plan has to be based on a robust assessment of housing need and there does need to be some impartiality to that evidence base there. Planning for housing is so political. You all know from your constituencies how emotive the issues can be. Unless we have that assessment of need that looks at demographics, including the need for housing to accommodate people who have experienced homelessness, people who have experienced domestic abuse, people who are older and have care needs, the whole plethora of housing through to getting first-home buyers onto the housing ladder, which we all want to see, it becomes incredibly politicised. There needs to be a robust assessment of need and we are worried about these proposed changes.

James Jamieson: Not for one moment was I suggesting that we should not have a robust and evidence-based local plan. It was more that any local plan involves compromise.

We have already seen the legislative change that recognises that it is almost impossible to have a perfect local plan. Therefore, decisions are always weighed. They are always challengeable. Should it be this site or that site? Do we need a bypass or can we get away with something else? Do we want more affordable housing or do we want better transport infrastructure? Do we want better green access? There is never enough money to go around. There is never the opportunity to do everything.



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Therefore, there will clearly be opportunities for any good lawyer or good landowner to find grounds to challenge something, but we need to have a reasonableness there. I simply cannot find any reasonableness about having 15 highly paid barristers spending several days or weeks challenging the minutiae of a local plan when, ultimately, the only objective is to get their particular site in there or to get the local plan overturned so that they can then get in on five-year land supply.

We need a robust system that ensures we get a decent local plan through. That means compromises and a holistic view. It also means that you should not be able to challenge national planning policy. If there is national guidance for X and the local authority says, "I am following that", take that as read. I talked about the advisory housing number. We have accepted the advisory housing number. Move on. We have a 30% affordable target. Move on. You will find that people will challenge everything. We need to have a good process that gets us through in two to three years. Otherwise, we do not have a plan-led system.

Q26 Ben Everitt: This, I assume, is what you were talking about when you were saying that the plan has to have teeth. It is a matter of where the buck stops.

I should at this point probably say a big hello to all our planning barrister friends who are watching this live feed. You are not all bad.

The duty to co-operate, James, while I have you, is being dropped. We were councillors in neighbouring authorities back in the day and certainly the words "duty to co-operate" give a real shudder when you are making a local plan. What is your understanding on how it will be replaced with this new alignment test and how that will work?

James Jamieson: In many places, the duty to co-operate did not work and it led to horrendous arguments between authorities. A lot of that was on housing numbers, "I cannot deliver my housing and so you should take it". If we have a robust calculation of the amount of housing an authority should have, albeit only advisory, that should be a robust calculation and, therefore, you should not have a duty to co-operate on housing numbers because that should be reflected in the calculation and we need the correct calculation.

However, you do need and it is appropriate to think about how local plans fit together. The last thing you want is to build a nice big housing estate on the edge of an urban area and no thought as to how those people will be able to access facilities, no co-operation on providing schools and so forth, and vice versa, which also happens, with the impact on the surrounding places. If somebody proposes a bypass and it ends at the edge of a planning authority, that would be daft. We need something to make sure that there is a thought process in terms of ensuring that there is alignment and we have gone beyond thinking, "That is where the border is", and nothing happens over that edge.

Q27 Ben Everitt: With almost all of these questions that we ask ourselves



about this kind of thing, you automatically leap to that answer, “That was the one good thing that RDAs did”, but the rest does outweigh that. Kate, do you have thoughts on the duty to co-operate and the new alignment test?

Kate Henderson: Nobody will mourn the loss of the duty to co-operate. It has not been successful. It has not delivered co-operation. It was never a duty to agree. It has not delivered the housing numbers or the infrastructure. It has not worked.

What is being proposed in the alignment policy is high level. We do not know whether it will work or not. We clearly need some form of strategic planning that recognises democratic accountability. That is important. At the moment there is no detail on how this policy will work but we absolutely need some form of strategic planning.

Q28 **Ben Everitt:** Thank you. Sam, do you have thoughts on that?

Sam Stafford: I am gobsmacked. I am grateful, Kate, that at least one person has read my NPPF submission because my first line there was that few will mourn the loss of the duty to co-operate. At least one person has read it.

I could not agree more. It would never be a satisfactory replacement for effective cross-boundary planning. It prompted discussions but, being a binary black/white yes/no legal test that manifested itself only towards the end of the local plan process was akin to—I used to promote strategic land in a previous guise and I imagine the planning policy manager at a local authority would feel the same.

It is like snakes and ladders. When you get somewhere towards 100, an inspector says you have failed the duty to co-operate. You do not go back just a step. You slide a significant number of steps backwards.

As I understand it, the only reference to the alignment test in the consultation is the ability for inspectors to use main mods to fix strategic planning issues through the examination process. That, to me, sounds like a fudge because these issues need dealing with at the start of the local plan process.

James talked about local plans knitting together. They need to be knitted together at the start. I read this week or last week that Amber Valley has been warned that its proposed submission plan may be found unsound because Derby has not yet identified its unmet need. Can it progress or can it not progress? They need to be on the same timeline for these issues to be dealt with effectively.

It may be that gateway checks, as imagined by the LURB provide a local plan commissioner with the ability to get people around the table, but getting people around the table is not the same as having a statutory or mandatory platform upon which to deal with the issues that local plans typically fail around, which are the numbers, the duty and the green belt.



Q29 **Ben Everitt:** Briefly, Richard, few will mourn, but where do we go from here with the lack of detail?

Richard Blyth: We have to have some way of dealing with the fact that authorities cannot meet their need because they are so constrained. The duty to co-operate does not do that. I do not know enough about the proposed alignment test to know, either. It would, as Sam has suggested, be quite sensible if all the local authorities within a housing market area did their local plans at the same time because then all these issues could be ironed out.

In fact, in a few instances the planning inspectorate has held joint local plan examinations for that reason, but the difficulty is that we also have this relentless pressure to produce local plans. Would the Government be happy for an area to say, "We will wait", for Amber Valley to wait until Derby is ready, or will they get not only penalised for not doing their plan but also subjected to speculative appeals?

The simplest solution is what happens in London, which is that the strategic level provides a number to each area and then they get on and deal with it. A difficult answer is what has happened in Greater Manchester, where they could have done that but what they have actually done is to attempt to write an enormous local plan for an area of 2.5 million people with every site identified. The lesson from that is to leave the site identification to the constituent boroughs. I see nods from other parts of the room.

Ben Everitt: Thank you very much, all of you.

Chair: Thank you very much, Ben. Moving on now to something we mentioned before, social rent and related issues, is Paul.

Q30 **Paul Holmes:** Thank you, Chair. Good afternoon, everybody. This is a question for Kate and James.

In the consultation, the Government have stated, "Local planning authorities should give greater importance in planning for social rent homes", which I think we all agree with, and that they want "to encourage local planning authorities to support the role of community-led groups in delivering affordable housing".

First to you, Kate, what changes to national policy will be necessary to realise this ambition?

Kate Henderson: First, this is my favourite bit of the NPPF consultation, unsurprisingly. It sends a strong signal of Government support for social rent and planning policies and decisions. We have a strong ambition here to deliver more social rented homes and we are keen to work with the Government to make it a reality.

We could do this through setting rent tenure-specific targets through the standard method or we could stipulate a set percentage of social rented



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homes on major developments, for example. There are different ways of going about it.

However, delivery of social rented homes cannot be seen just through a planning lens. Other factors impact on delivery, including housing need in an area and also the grant that needs to be available specifically for social rent because it is more expensive to deliver.

It is positive to see this. We support the Government including social rented homes in the NPPF consultation in this way. But I have to highlight that this is now at odds with some of the other proposals in the NPPF consultation on housebuilding targets, on land supply and on flexibility. There is an incoherence here. Some of these policies seem to contradict each other.

Q31 Paul Holmes: I know that your organisation has been campaigning for a long time on grants and, hopefully, the Government might start to review that soon, although we have been wishing for that since I got in and before then. James, the same question.

James Jamieson: The first point, which is the key point, is that you cannot solve this with planning alone. Much as some developers and landowners make a lot of money, others do not. The ability of a site to be of enough land value uplift to generate the housing that we need is questionable in many areas. You cannot just use it for the planning thing and you have to recognise that you always compromise. Do I build that feeder road or do I have more affordable housing? Do I have schools for people?

We have to look at other things. How do we fund affordable housing of all tenure types and mixes? If we are to be serious about it, we will have to have more funding.

We also have to look at, particularly in the case of councils, the right to buy. The key thing that the LGA is saying is that you should never be obliged as a council to sell a house for less than it cost you to build it and you should retain 100% of the proceeds because then you can build again. We have seen changes to the rent caps. A few years ago it was CPI -1%. Now we have it capped at 7%. If you want to build affordable homes, you will have to have a consistent rental regime that you can plan for.

My own local council is building about 150 affordable homes of various tenures every year but it is a 30-year plan. That is how long we expect to pay our debt back over. We need to know what rents we will charge. We need to know that, if we are obliged to sell a house, which I do not personally object to, we will get the money back to pay for the debt that we took on. There are lots of things in there, lots of things to do with grant and, yes, greater clarity around the value of land.



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Certainly I talk to a lot of builders. They are willing to do more if it could be reflected in the price that they pay for that land in the first place. We have clear rules. If you go back 20 or 30 years, people were paying the equivalent of £100,000 for an acre of land and now they pay the equivalent of £1 million in real terms. What has changed? Why can we not go back to that?

There is a whole variety of things. It is not a simple planning solution. Planning has a role but it is all those other things as well.

Q32 Paul Holmes: Thank you very much. Notwithstanding, Kate, what you said about grants—and I suspect your answer in a minute has not changed much from when I used to work in the sector—to what extent can social housing providers build new homes given all the other expenditure priorities that they have? Can you set a picture for us?

Kate Henderson: Sure. Housing associations and local authorities are under significant financial pressures. To give three examples, one is building safety. Despite welcome action from the Government to protect leaseholders and to remediate tall buildings, we are still faced with a bill for remediating buildings for social tenants and that will be in excess of £6 billion for the sector.

We are massively committed to decarbonisation and we have a huge role to play there, but that is a big pressure on the sector, too. Retrofit for housing associations of 2.8 million homes over the next 30 years, again, we estimate will be in the tens of billions of pounds. We have huge investment programmes but there is a gap there.

Then there is inflation. We commissioned research from CBR in the summer that demonstrated inflation for materials and repairs running at 14% and on new supply running at 12.3% respectively.

We must invest in the quality of our existing homes. We must invest in safety. We must invest in energy efficiency. This is non-negotiable. But it is putting pressure on housing association finances.

We absolutely want to build more homes, though. We need to build more, particularly social rented homes. That requires long-term stability. As James said, it requires a long-term rent settlement and it also requires long-term policy certainty and long-term funding. Of course, it requires grant.

Q33 Paul Holmes: James, do you want answer that from an LGA perspective?

James Jamieson: I am largely in agreement here. Both the housing associations and the councils are under a huge amount of pressure with all the changes that go on, the vast majority of which we agree with. We need safe homes. We do not want mould. We need to address the fire safety issue. We need to look to net zero. But we have to recognise that



that has a cost, but not just a cost. It has a management capacity issue. That is a big issue.

Particularly with regard to net zero, we need to start thinking about whether there are blended finance opportunities here. Clearly, if we rent a property that has virtually zero energy needs because it has solar on the roof and all these great things, that surely has more value than a 50-year-old house with high energy usage. How can we capture that? Is there a more flexible approach to rents that allows us to capture some of that saving and share it with the residents to fund these things? That is useful.

Separately, in the actual private market, it is not there yet but I remember when we first started insisting on having broadband available in houses and it was not a big issue. But now you would not buy a house if it did not have access to high-speed broadband. How do we persuade the public that they are prepared to pay a few thousand pounds more for a house because it is a low-energy house? That starts making the thing much more viable overall. We should look at that blended finance opportunity to help certainly address net zero.

Q34 Bob Blackman: Briefly, would you agree that it is not only the quantity of social housing and the mix within it but it is also the type of housing within that? A lot of the problems, for example, in London, which has not been mentioned too much, are where the typical development will be two bedrooms, two bathrooms and one shared living space, which is totally useless for a family. We need family accommodation as well as accommodation for younger people starting out on their first property. Would you agree that that should be included within the consultation?

Kate Henderson: Absolutely, Bob, I agree with having a housing need assessment that looks at your demographic change, not just the number of homes but the type of homes. If we have an ageing population, we need to make sure that we provide the right kinds of homes that are accessible and have support available. Similarly, on the point you have highlighted, there is a chronic shortage of family-sized social rented homes in many part of the country. Yes, I absolutely agree with that.

James Jamieson: Yes, getting the right housing mix is fundamentally important and it is not as easy as we would like.

We need to be a little bit more sophisticated because quite often the way we calculate the need for housing is we look at a housing waiting list and say there is a big need for family or three-bed homes. We then see that a lot of older people occupy those homes and a significant portion of them might be willing to move to a better location with something more appropriate in the town centres. We have to unpick. We cannot do a simplistic analysis.

In central Bedfordshire we, frankly, took a punt and we built supported accommodation for older people. We have seen half the people who come



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into that accommodation being downsizers, which has freed up family homes. We need to be more sophisticated. It is the same with disability and various other things. It is not a simple analysis.

Q35 **Bob Blackman:** Is it doing that review at a local level that matters?

James Jamieson: Yes, and going beyond the housing waiting list.

Q36 **Chair:** Would I be right in thinking that if I did an analysis of local plans done recently, many of them would not have any analysis of the types of properties but would just look at housing numbers?

James Jamieson: One of the issues, Chair, is that the methodology in planning terms is not as flexible as we would like it because it tends to be based on raw data rather than looking underneath it.

Q37 **Chair:** There is nothing to stop an authority drawing up a local plan and doing its own more detailed investigations?

James Jamieson: Then they can be challenged.

Chair: All right. Developers' accountability, Mohammad.

Q38 **Mohammad Yasin:** Thank you, Chair. Currently, a planning decision must be based solely on the merits of any application. The behaviour of the applicant may not be considered. But this consultation seeks views on whether developers' past irresponsible behaviour should be taken into account while considering a proposed development.

James, what examples of past irresponsible behaviour of developers might local authorities want to take into account when considering planning applications and is there merit in this approach?

James Jamieson: Yes, it definitely should be. I draw attention to a number of issues here.

One is failure to build out. I will not name names but a certain large development between central Bedfordshire and your own area is several years behind schedule.

Mohammad Yasin: That is a problem in every local authority.

James Jamieson: I know, but the developer behind that then sought to get permission on another site on the basis that we did not have a five-year land supply. Clearly, that is wrong. Failure to build out should come with some consequences.

Building and ignoring the plans that you have put in and ignoring enforcement orders should, definitely. If you do not deliver the roads and the schools or if you do not deliver proper sustainable urban drainage as per the plans, that should count against you. If you deliver poor-quality homes, that is a slightly more nuanced area, but certainly.



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Also, you would need to pierce the corporate veil. Just because subsidiary X performs badly, you should not allow subsidiary Y to be chosen as an innocent party. You also need to pierce the corporate veil.

Q39 **Mohammad Yasin:** Sam, the same question to you.

Sam Stafford: This is a can of worms. That longstanding principle that the permission relates to the land is indubitably sound and I am loth to prejudice that without seeing the evidence. I accept that there may be issues that bridle, but you are talking about changing a fundamental principle.

At a practical level, it opens up every single planning application, conceivably, to abuse and exploitation, followed by unnecessary and unwanted litigation. Frankly, I cannot even begin to imagine the burden that it would place on extremely overworked, frazzled planning officers already to have members of the public or councillors trying to impugn the reputation of somebody putting in a planning application. That, conceivably, is what the door is being opened to.

I found it something of a slight professionally. Tens of thousands of chartered town planners make planning applications and subscribe to the RTPI's code of conduct. In a document that was laden with anti-development sentiment, this goes towards an anti-developer sentiment, which is unnecessarily divisive and rancorous and a slight, frankly, on HBF members who are committed to building good homes in great places and are committed to the social and environmental responsibilities.

Enforcement is not a statutory planning function and a conversation is to be had right now and during the planning application fee consultation about making planning authorities self-sustaining, not just ringfencing funding but thinking about all the non-statutory planning functions, like enforcement and like plan making, thinking about funding them in the round. If people do not comply with conditions in the way they should, that needs calling out and that needs enforcement action taken, but authorities sometimes do not have an enforcement officer.

I have some sympathy if somebody has waited six months for the discharge of the precommencement conditions and is paying £10,000 a day in interest charges and has to make a start on that site, knowing that their corporate reputation may be damaged by doing so.

Build-out and land-banking I would love to explore but, noting how much time was set aside for this session, I would love to come back another day and talk about that. Maybe we will pick that up separately.

In conclusion, I am extremely wary of moving away from that age-old adage about granting planning permission for the benefit of the land.

Q40 **Mohammad Yasin:** Richard, you nodded?



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Richard Blyth: Yes, Sam has performed the role of RTPI spokesperson well in this instance. It is not just an adage; it is a legal principle that has been established through the operation of the courts and precedent since at least 1947. Woe betide anybody who starts to try to upset the apple cart on that point because we may end up spending more resources as a country on dealing with it than we would on getting to grips with some of the issues around build-out.

I continue to commend anybody to read Oliver Letwin's report on build-out, which identified some practical suggestions to which we could more usefully put resources on, for example, having properly resourced teams in local authorities who take existing planning permissions and then work with the owners and the applicants of them to lead them towards completion. He made the point using a Milton Keynes example that you are lucky if you get half a full-time equivalent person to shepherd a major site through. He drew the comparison with the Netherlands, where you would have 20 or so public professionals who work to deliver sites with permission.

In fact, the discussion around planning reform has often focused far too much on the period before planning permission is granted, and far too little attention is given generally, both in Parliament, in Government and otherwise, to what happens once there is a permission, and making sure that it delivers the outcomes that we want as a society.

Q41 **Mohammad Yasin:** Thank you. James, there is a view that the proposed revisions possibly impact build-out and the issue of land banking. What is your view?

James Jamieson: As I said right at the start, there may be a few developers who play games here but this largely relates to landowners and site promoters, because once you have paid several million pounds for a site you have a financial incentive to see a return, notwithstanding that over the shorter term you might just manage your sales process to make sure that you get the prices you want.

However, there are sites—and you can go to every local authority—that were allocated five, 10 and in certain places 15 or 20 years ago, that have not come forward. There will be a variety of reasons, but this is hugely upsetting to the public. Trying to justify why you should give planning permission to site X as a new site when down the road there is a site that has stood idle for 15 years is hard. There is a debate about how big an issue this is as a percentage of sites and all of that, but in terms of public perception, it is key. It is very, very hard to go and say, "We need to bring forward another 5,000 homes" and someone says, "That site has not been built on for the last 20 years. How can it be that we need more houses, because if we did surely that farmer would have sold his or her land?" Therefore, I do think that we need to have mechanisms where we look at this.



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There are a couple of comments that I would make here. It is allocation that matters. Outside of an urban area where there already is a high existing land-use value, where you are talking about greenfields, that is where someone, so to speak, gets the lottery ticket of having something worth £5,00 or £10,000 an acre to it being worth £250,000 in some places, or if in Surrey it could be several million pounds. That is the point at which you should have obligations placed on you and you should commit to them. One of those is that there is an expectation that you will build out and we need tools for that. Yes, we need to have a properly resourced planning department, we need the planning department to be reasonable and all those things, but that is the point.

Interestingly, with LURB Bill there is one area where I have a bit of a disagreement, which is that it talks about placing conditions on build-out at the planning permission stage. If it is allocated land, it should be at the allocation stage. If you do it at the planning permission stage, you are discouraging someone from going for full planning permission because they have a whole series of additional obligations. For a site that is not allocated, then, yes, it would have to be at the first time it is given outline planning permission. I am very keen that that, which I have described as a technical change, is made on that.

Mohammad Yasin: Does anybody else have a view?

Kate Henderson: Having greater transparency and public accountability over land that has consent and build-out rates is a good thing. Public awareness of what has been consented and what is happening is important in bringing communities with us around the nature and change of development in an area and when it is going to come.

I agree with Richard that there is no acknowledgement here in terms of build-out around the importance of mixed communities. The Letwin review from 2018 identified that if you want to increase build-out rates, the mix on a site and the tenures on a site and onsite provision of rented homes in particular—and we would say affordable homes as part of that social rent and affordable rent—will help build those sites out. That is missed from this.

To add to that, proposals for the infrastructure levy in part 4 of the Levelling-up and Regeneration Bill also risk moving away from this in-kind contribution to affordable housing to a finance-based system. Again, although Section 1 is not perfect, it does facilitate that mix.

Chair: We are going to come on to the infrastructure levy very shortly. Moving on to the issue of resources, which we have touched on a number of times.

Q42 **Ben Everitt:** I am not entirely sure that we are moving on, because there is so much link back to the issues that we have discussed. My broad opening question was going to be about what challenges planning authorities face in implementing the proposed changes, but for reasons of



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brevity, we have cantered over resourcing and skills. Probably the political air cover would come in there.

We have not mentioned churn in planning departments. Richard, you gave an example of having half an FTE per planning application. At the moment it is very unlikely that that single person will be the officer at the end of the application, such is the length of the planning process and the dynamic nature of planners going into consultancy. We also touched on the need for a more strategic approach, which is not enabled by the current system as it stands. We have an opportunity here to leap on a bit and ask how we resolve these questions and how we get better quality planning departments, better resourced, with better retention and more technical skills. Importantly, how do we get planning departments held in higher esteem? Richard, over to you.

Richard Blyth: We have some interesting ideas on that point. Last September we published a paper called "Planning Agencies", which was to address some of the points that you have raised exactly. Apart from just asking for more money, which is a different discussion, this was non-money answers to those problems. These planning agencies will effectively be public sector consultancies, at arm's length from the local authority but subject to the local authority's political control, so the sovereignty would remain with the local planning authority but the work would be done by this arm's-length body, which would be owned by possibly a collection of local authorities that would all be on the board.

We got the idea from a model that the French use over some wider areas, like, for example, the greater Lille area. The advantages would be that the churn would be addressed by the fact that instead of having to keep moving from one district to the neighbouring one for a slight pay increase, you could plan people's careers towards full chartership and beyond by saying, "Stay with our agency and we will deploy you in different places and give you different things to do so that you get a portfolio of experience". That would increase the attractiveness of the public sector as opposed to the private sector. It would also potentially enable people to live in locations that were perhaps more appealing to certain kinds of recent graduates.

It would also address the question of specialist skills. This is not just about town planners, this is about the range of other skills the public sector needs around heritage, environmental skills and transport. This agency could have those skills that it could deploy around all of its client authorities, there again as needed. If each council cannot afford a whole historic buildings consultant but maybe four of them could afford three, that could be addressed in that way. It is not a government thing; it is something that we would commend to local government to do and to experiment with.

There are all sorts of different models. You could give the agency everything to do or you could give it just plan-making or just the wider functions that are shared, like strategic plan-making and the specialist



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functions, any model you like, to try to make this so that the public sector can say to the graduates of our planning schools that this is a good offer, "You don't have to go into one of the private firms. This is a great way and one day you might even become the head of this agency".

Q43 Ben Everitt: That is interesting. Sam, I would be grateful for your thoughts on that from a developer perspective and any further thoughts that you have.

Sam Stafford: Do you mind if I give a personal reflection first because I have been afforded this platform to speak on behalf of the planning sector and I might take this first opportunity to alight upon it? Richard makes a valid and helpful practical observation about the confidence of planners in departments, but it has been suggested that there is a broader existential crisis of confidence in planning just at the minute. Frankly, I think that this consultation speaks to it, speaks to undermine the credibility and integrity of the system by responding so nakedly and cynically to a very narrow political issue at a point in time. It perpetuates the sense that since 2010 or so communities are in control. You can influence everything that is going on around you, which is to undermine a sense of what it is that the planning system is seeking to achieve, which is to mediate private and public issues in the public interest. I believe there is a LURB amendment about getting chief planning officers in local authorities as a statutory position, which would be a positive step toward the role and the value of planning. Soapbox moment over, thank you for indulging me.

The consultation on fees is an opportunity, as I say, to think about self-sustaining planning services in the round. There is an element in there that talks about skills and capacity and capability. It is disappointing that that agenda has not moved on since a promised skills review in the 2020 White Paper. I would very much hope that planning professionals in all sectors take the opportunity to respond to that consultation by saying that it is not just money. There are more significant factors at play here around the working and operating environment that make the transacting of planning applications very difficult. Hopefully this consultation will shine a light on that as providing evidence as to exactly what practical steps do need to be taken because I am not sure there is a thorough understanding of that.

Q44 Ben Everitt: It is interesting that you mention the 2020 White Paper because there was a lot in there to like, and certainly the skills review is, in my mind, intrinsic to supporting planning departments and planners. One of the other things was the focus on engagement with communities. When you gave your personal views there, there was an interesting philosophical point about what is the point of the planning system. Planning for me is about building homes for people in the communities that they are in and there is a whole mutual-consent argument that you do need people to be engaged and involved in that process. In previous answers, you mentioned the Stalinist, state-down, numbers approach. I



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think that it is much more nuanced than that and there is a role for communities that should be brought out. If I were being provocative I would say that it was in the developers' interests to engage communities earlier on because you are less likely to get challenges later in the process. Any thoughts on that before I move to James?

Sam Stafford: I gave my friend Paul Smith a mention earlier and I will give my friend Shelly Rouse, at the Planning Advisory Service, a mention as well. She talks about a cascade of proportionality in the planning system. Local planners are doing so much heavy lifting, local councillors bear the burden of all that heavy lifting and we have the crazy situation where we have local elections three years out of four, so planning is never away from the sharp end of politics.

I believe that I am right in saying that we are the only western liberal democracy in Europe that does not have a spatial expression to its national priorities, outwith any greater local planning expressed regionally. All of these issues, be they solar farms or energy transmission pipelines and things are dealt with by way of a local plan. I saw a survey on this a few years ago, a CPRE survey, about the tier of government where major decisions on housing and new settlement should be taken. There is an acceptance on behalf of the great British population, I believe, that some decisions need to be taken at a greater than local level. If you introduce that proportionality that says, "We're dealing with this in the round. The local authority gets to determine a spatial strategy and you, community, get to determine which site on the edge of the village is the most appropriate. Have a beauty parade and extract from these developers as much as you possibly can". That is entirely proportionate and legitimate but some way away from where we are at the minute.

Ben Everitt: Regional spatial strategies. That is a blast from the past. Thank you, Sam.

James Jamieson: I love the idea that you are saying that we allocate X houses to a village and then allow them to have a beauty parade. That is where I would like to be.

There are various things here. In my 14 years in local government, I have seen planners move further always from being planners and place shapers and more to being processors. They are under the cosh, they have a timetable, they are pushing something through the sausage machine and we need to move back from that to where they are genuinely trying to create additional value, "Listen, developer, landowner, if you move your housing a little bit this way, we can still see the view of the church. If you move the cycle path over there, it will join up with this cycle path that we hope to have in 10 years' time", that added-value place shaping.

Oddly enough, I am seeing in many places that it is the local councillor who is having to go in and make some of those changes, which is the job



of a local councillor, but I am sure planners would much rather they had more time to create great places to live, to work and to do whatever. We are not doing that. Why are we not doing it? It is twofold. One is resources. There are not enough planners; they do not have enough time. Secondly, the system is far too adversarial. Everything is challenged, everything is pushed, pushed, pushed.

In terms of how can you address this, I go back to my comments from very early on. Let's have a simpler, clearer system where we have less adversarial change because you are not able to challenge. "Here is the planning policy, here is the housing policy", or whatever it is locally. "That is not challengeable, it is part of the local plan, you do it." That would make life simpler, provide more time and resources and would also be simpler for developers because they know what they have to do when they acquire the land.

Secondly, we do need more planners. When I first came into local government there was a feast and famine issue of when it was boom times there was a shortage of planners because they all worked for the private sector. When housing developments slow down we all of a sudden have a surplus of planners. I have not seen that in the last 10 years. We do not have enough planners. One is because of the additional resources that are being taken up, but we need to have more. It is incumbent on the local authorities, the various associations and the Government to come up with a plan as to how we have more planners. That is partly recruiting more, that is partly about apprenticeships, taking more people through university. We just need to get on with that workforce planning and it extends to enforcement officers, building control and others. That will require money and most developers who I talk to are more than happy to pay higher planning fees for a better service.

Q45 Ben Everitt: Absolutely, we need to make planning sexy again—it is a cool job; you get to go into work and design communities that are going to be there for hundreds of years—and that involves treating planners with higher esteem, paying them more and retaining them more and giving them less flak.

Kate Henderson: I agree with all the points about planners being under-resourced and massively overstretched. It is not just about new supply, though. One of our experiences with the Social Housing Decarbonisation Fund, which is a welcome fund for retrofitting homes to make them more energy-efficient, is that the funding is awarded within a period. We find through that experience that sometimes the local authority planning departments do not have the capacity to make the planning decisions on those retrofits so money is going back. We do not want to see that. Similarly on some of those pilot projects, two houses next to each other may have different planning consents even though they have the same archetype.

It is about the skills base as well. This is something that Government, through looking at the NPPF and looking at the skills and the whole thing



in the round should be providing training and supported capacity for but also certainty around what is within the remit and what needs to go through a longer process. However, I agree with colleagues on the resourcing point.

Chair: We will move on to the infrastructure levy.

Q46 **Andrew Lewer:** Back in my county council leader days, CIL came in and was going to transform the landscape and then did not. We are now on consultation and design of an infrastructure levy designed to replace section 106 and CIL, on the whole. That consultation is expected soon. Have you heard about its parameters or what would you expect from a new infrastructure levy? I will start with you, Kate.

Kate Henderson: The infrastructure levy is designed in the main to replace section 106. It is worth clarifying what section 106 delivers. It delivers around half—last year it was 47%—of affordable homes in this country that came throughout the section 106 route, which is 12% of all homes delivered last year. The infrastructure levy is being brought in but as yet we do not have a consultation on it or the research that has been commissioned behind it.

The Committee gave me the opportunity to talk about this in the summer and it does represent a radical shift in how affordable housing is funded and delivered. We do think that it needs to be well evidenced. We set out four key issues when we were before you in the summer. Very briefly, they were around protections. The infrastructure levy talks about delivering at least many affordable homes as the current system but there is no provision in the Bill for ensuring that at this stage. We would like that not just to be desirable but to be based on objectively assessed need.

We are concerned about the onsite delivery which links to the build-out rates point. Again, we hear very warm words about the importance of mixed communities. At the moment we do not have that in the Bill, on the face of the Bill, in terms of how we get a right to require affordable housing onsite with large schemes. We remain concerned about viability. How will this work in areas of lower land values to make sure that the levy works in all parts of the country, because we know land values can vary considerably? We also had some very welcome words from the Secretary of State around exemptions for 100% affordable sites. Again, that is not in the Bill.

Therefore, we still have concerns about the Bill since we last spoke but there has also been an amendment that went down during the Truss Administration to a levy that it can be spent on things other than infrastructure. I would like to draw attention to that. We know that local authorities are under huge financial pressures but it is vitally important that the infrastructure levy goes on infrastructure-associated development and, for us in particular, for affordable housing. The Bill is in the Lords at the moment. Anything that the Committee can do to ensure



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that the levy is made to ensure that it does deliver affordable housing would be hugely welcome.

Andrew Lewer: Thank you. I am not sure that this will catch on but, Richard, what do you think about IL?

Richard Blyth: My concern about IL is that it is a bit like CIL. When it was originally put forward in the White Paper in 2020, we had some concerns about the prospect of what could have at that time been a single uniform percentage rate. We were glad to see that when the LURB was published, it would appear that that is now off the table and that you can have different rates in different parts of the country to accommodate the issue of viability.

It is worrying, though, that the Government are proposing that every IL will be examined by a planning inspector because it seems to me that if you have once done a local plan, you have been to the inspectorate enough times. To have to go back, as it were again, with the money for it—we put forward an amendment to the Bill that there are other safeguards that you could bring in to make sure that the provision would not be abused. In any case, if a local authority charged an 80% infrastructure levy, it would not happen. Sheer common sense is going to put some kind of safeguards around it. The business of having to go back to the planning inspectorate with another examination when we are so short of people to do any of this—and we are incredibly short of inspectors, which we have not raised at the moment—that is ill-advised.

There are some unintended consequences. It is quite a niche topic, but the National Trust raised with me the fact that at the moment section 106 is used for quite a variety of purposes. For example, if I were fortunate enough to own a stately home whose roof needed replacing, I could consider the possibility of what is called enabling development in the ground of my stately home to help pay for that. That is a fairly niche point but section 106 has been used for a variety of purposes over the years and local decisions are made on, "Is this thing that we need more important than that thing?"

However, this is going to be a tax that will have to be paid by the promoter of a scheme before thinking about anything else. If I was doing a scheme I might say, "I haven't any time for these bells and whistles. I've paid my tax, that's the end of it. There's no more money in the system to pay for this other stuff". The tax is non-negotiable, it has to be done according to all the rules in the infrastructure levy so there could be some penalties, things we will lose by having an infrastructure levy. It is being introduced for good reasons, to try to make things more certain, but there could be some problems associated with it.

James Jamieson: Both 106 and CIL have huge issues around them. They have some good points but they have huge issues. The example I gave earlier of land being sold for incredibly high values but generating very little funding for affordable housing, critical infrastructure and so



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forth, does not feel right. You then have the local authority having to subsidise development in order to fund those schools and so forth. I think it is perfectly fair and reasonable to be able to capture a higher proportion of the land value when it exists so looking at whether there is an alternate way is sensible but we need to ensure that it comes out of the land value. The problem comes when you have a high land value and then you are trying to squeeze a developer. That is difficult.

I agree with you that this should go to the planning inspectorate. My view is that you should set it out very clearly at the outset. When you have a call for sites you say, "Here's our infrastructure levy, here is the number of houses we want, here are the design standards, here's the housing strategy". Everybody knows what it is and they come forward. Who is the best person to judge whether they can afford the infrastructure levy or not? It is the landowner who brings their site forward and is saying in effect, "I can afford this, my site is still viable. I think I will be able to sell it at a price that is reasonable to me".

A planning inspector, with the best will in the world, does not have that same capacity. The real tool there is that to have a successful local plan you have to allocate enough sites. You put the conditions down. If the conditions are too onerous, not enough sites will come forward. If you get it right, you will get the right number of sites, or preferably a slight surplus so as to give you a choice of sites. It is a little bit like you were saying, "Here is a village. Which site will give me the best benefits for this village?" Therefore, in a sense I like the infrastructure levy, I like the way that it is calculated, but the key is that it has to come out of the land value.

It is also important at the moment to say that we do not get any funding for conversions such as office to residential. We get no funding for small developments. Those can be significant numbers in some areas and place a significant burden on the community and the local authority, the community because it does not get the infrastructure and the schools and things that it needs and it ends up with stuff that is even busier and more overused, and the local authority because it is having to find some mechanism of funding it.

There are a lot of issues around it. Kate's point about affordable housing and the onsite contribution needs working through. However, we are certainly in a position at the moment where, not everywhere, there are a large number of places where the land is going for extremely high values and the landowner is not contributing fully to what is needed for that site to go forward.

Sam Stafford: As imagined, and we await the detail, it would represent a major overhaul. As has been said, it is a land tax and land taxes have been tried before, often unsuccessfully. The principle of streamlining what can be byzantine section 106 and CIL—CIL is not mandatory, which is largely why the take-up of it has been poor. Streamlining as a principle is



sound but I ask myself what is the problem trying to be solved here. According to Savills, over 50% of land-value uplift is already captured by way of 106, CIL, inheritance tax, and capital gains tax. According to DLUHC itself, £7 billion was raised in developer contributions in 2018-19. Is the problem what is being captured or is the issue how it is being spent, the proportion that disappears off to Whitehall or Treasury and never comes back, or the fact that you cannot often draw a direct line between section 106 and CIL contributions, and the village hall and the scout hut. There is no blue plaque as you saw in European Union days.

Speaking to Kate Henderson's point, if you are setting a development tax rate across the entire country at a rate that either does not prejudice viability or at a rate where landowners do not want to bring land forward, it seems to me in principle very difficult to see how that would capture any more than is already being captured, notwithstanding the point about affordable housing not being delivered.

Q47 Andrew Lewer: Do you find the Government's approach to introducing IL—which will be a test-and-learn approach—an innovative and forward-thinking way of introducing legislation or more of a Windows 95 way of introducing it, where the customers get all the grief while all the bugs get ironed out of it? That was certainly the case with my version of it, anyway. Or is there another problem with this, that it is far too secondary legislation and too DLUHC-orientated? In this place, we spend a lot of time doing legislation that is quite small, whereas this is massive and yet so much of it will be secondary. This is a slightly leading question.

Sam Stafford: This is a huge overhaul, as I said before, and I do not think its transition will be helped by being prolonged.

James Jamieson: I want to pick up on the point of a single rate for the country—absolutely not. This has to be a local rate. Even within my local council area there are widely different land values, so it does have to be a local rate.

Yes, I think that it would be helpful to pilot, but the other thing to be cognisant of is that this will take a long time because you have all the existing planning applications and allocations, which were done on a different basis. It may be that the Government decide that they will re-review sites every time you have another reiteration of the local plan, but this will take a long time to implement simply because of all those sites that were already done on an existing 106 or CIL basis.

Richard Blyth: I am not sure that we have had a test-and-learn before. We will be learning about test-and-learn, so that will be interesting. I suppose it will really be for lawyers to ponder whether you can introduce a piece of legislation in one place and not another. The last time I think that we did that was with the poll tax, and that was for stronger constitutional reasons, because of Scottish legislation.



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Quite how you can make something legally binding on somebody in, say, Plymouth but not in Cornwall, I do not know. I think the idea of trying things out is good. It is just that this is a difficult thing to try things out with because it is a tax rather than trying out a different way of doing local plans, which is perhaps not so fraught.

Kate Henderson: For that reason, because it is such a fundamental change in the way that we would deliver a huge proportion of our affordable housing, we have supported an approach that would evaluate whether this protects the supply of affordable housing in an area. The idea of having a test-and-learn approach sounds like a sensible way forward. However, it is difficult to say whether a test-and-learn approach would work because we have heard so little about it or whether it will be piloted.

As previously noted, this is a substantial change for local authorities which are overstretched. There would need to be a transition period for them to work with an entirely new system.

Taking a step back from this, this is a big change and it feels very much like the Government's approach is to legislate first, consult later.

Andrew Lewer: Yes, indeed. Thank you.

Q48 **Chair:** Thanks. We will go onto National Development Management Policies. One thing is at least there is recognition that there is an issue here, even if we cannot solve it today. This levy will raise very different amounts of money in different parts of the country. You will still need affordable housing and an infrastructure put in areas where land values are not high. Indeed, sometimes there is a brownfield over generations that needs even more put in. Is that an issue which is not really being addressed at present?

Sam Stafford: Something I did not mention before, if I may, is that CIL was reviewed in 2017. An expert group came up with local infrastructure tariffs and strategic infrastructure tariffs as a way of both streamlining section 106 and CIL and making provision for local variation, nuance and circumstance. My sense is that a lot of that work will be valid and will be pointed to by the development industry in the forthcoming consultation.

James Jamieson: With regard to your question, Clive, it is clear that whatever system we use, land values in certain places are far less—and in some places even negative—therefore there is not the opportunity to extract land value. However, where there is the opportunity to extract land value to support local infrastructure, we should, and that would allow more Government resources to be focused on those areas where there is not land value.

Q49 **Bob Blackman:** The Levelling-up and Regeneration Bill is in the other place. In fact, because of additional amendments, it seems to grow by the day with the number of committee days they are having. Indeed, we



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have had a succession of different Ministers that piloted the Bill through this place. This is a Mystic Meg question but very sadly Mystic Meg died last week. I will ask you to give us a view on how well we have a proper understanding of National Development Management Policies, what they are and how extensive they will be. If I start with you, James, for the LGA perspective.

James Jamieson: This is one where I say good question. The honest answer is yes, we have an idea of what their purpose is. Do we know what they will end up being like? The answer is no. In theory, would it be helpful to have some national development policies where there is essentially a similar policy over heritage, for instance, across the country, and in particular, something that at a local planning hearing can be taken as tick, those are the rules? That would be helpful, but we need to ensure that they cover the right things and that we have flexibility locally where needed. Also, they should not override local policies per se.

I also have a concern where—alluding to my earliest point—as National Development Management Policies come out, effectively there will be things going through the system that all of a sudden may or may not comply. We have to think carefully about consultation on that. I would also say there should be robust consultation on these as they come through. They could have a useful role in part, but until we see it, we do not really know.

Sam Stafford: My understanding is that the first iteration will be the development management policies or provisions for development management policies in the NPPF. The NPPF always becomes two documents—one policy and planning-related and one development management-related.

I think that I speak for members that the case for NDMPs is a compelling one and could have a transformative effect on both planning application timescales and a transition towards 30-month local plans, which the LURB imagines. I think that they were one of the more sensible elements of the White Paper of a couple of years ago. But it seemed to me that during report stage, particularly in the LURB in this place, that a power grab narrative took hold. It seems to me that if the industry, the sector and planners are going to benefit from them, then the benefit is standardisation, a national approach to EV charging points or biodiversity net gain, for example.

One of the biggest issues that I get from HBF members at the minute is authorities legitimately declaring climate emergencies and wanting to act upon those climate emergencies, but then pursuing policies mostly by way of SPDs—which will be scrapped—on climate change mitigation, adaption, ambitious overbuilding regs and ambitious timescales towards net zero operational carbon. This is all perfectly laudable, but you are going at a different pace to building regs, and you are going at a different pace in one part of the country to another part of the country. That



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makes it particularly difficult for SME builders to get a feel for costs because the supply chains are not there.

If National Development Management Policies are going to be sufficiently ambitious as to take the least ambitious local authorities with them and provide that standardisation, then I think that they have considerable merit. But if they are to be pursued and still allow for local discretion such that the exceptional circumstances are to stay below rather than to go above, you still end up with a patchwork quilt of local standards that do not necessarily speak to each other. To my mind, that needs putting out as soon as possible. If we are going to do them, I think there inevitably has to be some degree of local control that is ceded for a greater benefit, otherwise—

Q50 Bob Blackman: During the Second Reading debate, the then Housing Minister—for those with long memories, it is several Housing Ministers ago—made the comment that the intention was not to “override local plans”. Taking your point, Sam, it is not to override local plans, “but to reduce the administrative burden on local councils...[by shifting] the onus of delivering on national priorities to central Government”. What you are saying suggests to me that there has been a change in focus as the Bill has progressed.

Sam Stafford: I think that if you are talking about greenbelt and heritage and things where there may be an overlap already, that would make a difference, but it is not necessarily significant. Local plans are not held up generally because the authorities were quibbling about the national approach to heritage or what national policy is on greenbelt and we want to do something slightly different. That is not where the nub of local planning issues lies. It would be almost an administrative function to take responsibility here and put it there. If they are to have any meaningful impact, I am suggesting their scope should expand to development management policies that are different in different parts of the country.

Richard Blyth: There are some people who have said that a lot of time would be saved in examination by not having to go over this, and there are other people who said, like Sam, that it actually tends to be issues about housing allocations that take up time. It would be useful to know the answer to that question before introducing the concept.

I differ from Sam. In the specific area of climate, we are concerned that that innovation will be stifled because everyone will be forced to go at the pace of Whitehall. Some interesting work is being done by local authorities around the climate emergency in advance of the Government. I think that is quite a different agenda from greenbelt and heritage where you are not talking about a fast-moving change. In fact, the NPPF has not looked at the issue of climate since 2018. Much has happened in the world since 2018 and we are still using an NPPF that hugely prioritises housing and does not particularly take much notice of climate, despite



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everything that has happened. It worries me that on an issue of that importance we would have to go at the speed of Government.

There is a question about how the public will work on this because at the moment, for better or worse, the public understands the concept of a local plan especially where now we only have the local plan; there is nothing higher. There will have to be some way in which you present the product to people and say, "The first bit we cut and pasted the national policies, so you cannot talk about those and they are there. Part two is the bit that we are doing here." Part two would go to the examination and be the bit that the process covers. At the end of the day, you have to put it all together so that the public has a place where they can go and see everything, as well as Government development management staff.

We would also agree that there needs to be a higher bar of consultation. I am not sure how many of the public will have comprehended or been involved in the consultation into the NPPF that started on 22 December, included two weeks of largely public holidays, and then concluded on 2 March. With a suite of national policies that legally trump any other policy, I think that it behoves the Government to raise the bar on how it consults people, using different mechanisms. We also consider that it should come to this House as well for debate and sign-off, as with National Policy Statements, because of the power that it will have from one end of the country to another.

Bob Blackman: I will come back to you on that debate.

Kate Henderson: I would agree with that last point. If you are introducing something that will have legal weight in decision-making for the communities, there does need to be a rigorous democratic process of agreeing those policies. That should be public, but it should also be in this House.

The idea of proposing development policies at a national level to reduce the burden on local authorities and to create certainty sounds great. It sounds like a principle that we could all get behind, but we do not have any detail of what these will cover and what the scope will be, beyond very high level in the current consultation. It is difficult to take a firm view on what the impact will be. The principle of introducing something to relieve the burden and create certainty is a good one, but it does need to have democratic accountability.

Q51 **Bob Blackman:** What sort of scrutiny should be applied to these policies?

Kate Henderson: You would expect there to be a public consultation that is not over public holidays, as Richard said, but is well-communicated. I think it should run through the LGA because it will have—

Q52 **Bob Blackman:** Should there be Parliamentary scrutiny over these?



Kate Henderson: Yes, I think that there should be.

Q53 **Bob Blackman:** What form do you think that should take?

Kate Henderson: I think that the National Policy Statements that we have on things such as energy is a good format for that, but it is also worth acknowledging that those National Policy Statements are generally for big bits of kit. They are for a power station; they are for a port. They are quite specific. If these are policies are impacting communities in different ways, the scrutiny might be of a wider breadth of hearing, but at a committee format. I would expect the Select Committee to have a sign-off process of adoption—

Bob Blackman: Joy. *[Laughter.]*

Kate Henderson: That would be a democratic way forward. You will then have public acceptance. I think that one of the things that we have in planning, as we have talked about a lot in these sessions, is that it can be so conflictual. We have democratic accountability and we have representative accountability. I think that this is where you can draw some clear lines. You have democratic accountability by doing public engagement, and then you have our representative democracy, where our elected representatives take the final call on it so that there is a robust, trusted, transparent democratic process in place.

Bob Blackman: I will come to Richard because I think that you were alluding to this.

Richard Blyth: We have just concluded a research project looking at how national policies work in different countries—including some very nearby countries—and we will publish that next month. One country that does this is Scotland and it goes to the Scottish Parliament. They have also involved the RTBI in some extensive public consultation on national policies. There is one slight snag in the Scottish process, as far as I understand it, which is that Parliament may either accept or reject the national policy framework. Fortunately, the Scottish Parliament accepted it, but there does not seem to be the allowance for Members of Scottish Parliament to ask to amend it, like you can amend parliamentary Bills, for example. I think that if it were to come to this House, there would need to be some way in which it is done proportionately.

Q54 **Bob Blackman:** There was a lot of scrutiny under the Planning Act 2008. Do you envisage a similar type of scrutiny to these national policies?

Richard Blyth: Yes.

James Jamieson: As this Bill goes through, there are lots of consultations going on about different parts of it. I worry that when you have a series of consultations, it gets lost. I think that there needs to be some thought about whether we can bundle these up. I know that these two are of broader breadth and complexity, but if you genuinely want local planning authorities, the RTPI and whatever to look at something,



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you cannot hit them every week with, “Here is this week’s consultation”. We need to be reasonable in how we consult with people.

Sam Stafford: I have nothing more substantive or constructive to add.

Q55 **Bob Blackman:** Earlier, you talked about London being different and there was no chance of London achieving the numbers, for example. The National Development Policies will look very different for London than they will for, say, Bedfordshire. How do you get that balance right?

Sam Stafford: I think that is the substantive point at the heart of National Development Management Policies, as it is with the Infrastructure Levy. Where do you levy a tax that does not hamper viability in a single part of the country? How do you construct a National Development Management Policy where it makes a meaningful difference in such a way so as to keep happy those authorities that are progressively pushing an agenda, but at the same time, those who are not, that goes as fast as the slowest? I am not sure that that has been reconciled.

I think if you were to consider that 2020 White Paper in the round, with National Development Management Policies and the growth and renewal and protection zones, there was a degree of coherence to all of that. It might all work together. This is one element of it that you then are trying to add into an already Byzantine and idiosyncratic system.

Chair: On that point, thank you all very much for coming this afternoon. We have gone through an awful lot of issues—some in quite great detail—but they are important. We will hopefully see some of the comments here and the Committee’s report, eventually when we do it, reflected in the eventual outcomes. As we say, we have another nine consultations to look forward to in the next few months. I think that it comes back to the point that after the Committee did the first enquiry into the NPPF back in 2011-12, we said in five years we would have a comprehensive review as to how it is working, draw some conclusions and have a look at the totality. We never had the comprehensive review. We have picked bits and pieces up and gone along in a way that probably is not helpful to the whole, but anyway.

Thank you very much for coming this afternoon and exploring those matters with us.