

Written evidence submitted by NALC [FPS 021]

PR 15-20 | HCLG SELECT COMMITTEE INQUIRY - PROPOSED PLANNING REFORM - HOUSING, COMMUNITIES AND LOCAL GOVERNMENT SELECT COMMITTEE

I am writing in response to the call for evidence on proposed planning reform by the Housing, Communities and Local Government Select Committee.

The National Association of Local Councils (NALC) is the nationally recognised membership and support organisation representing the interests of around 10,000 parish and town councils and many parish meetings in England, 70% of which are situated in rural areas. Local (parish and town) councils are the backbone of our democracy and closest to local people, providing our neighbourhoods, villages, towns and small cities with a democratic voice and structure for taking action, contributing in excess of £2 billion of community investment to supporting and improving local communities and delivering neighbourhood level services.

Executive summary

- Simplifying the planning system is not the answer to the housing shortage.
- A return to over-arching sub national areas and sub regional policies should be considered.
- Local Plans and Neighbourhood Plans need to be explicit and not easily overturned.
- There should be no diminution in local council or public input to the Local Plan process.
- Principal authorities' democratic rights to decide planning applications must be retained.
- Local councils' statutory rights to comment on planning applications must be retained.
- Consideration should be given to expanding local councils' input to the planning system.
- Local councils should have a third party right of appeal in the planning process.
- Affordable housing must be a requirement on all housing sites of 10 or more houses.
- The open market will not deliver the number of houses that are needed.
- Local planning authorities and local councils need to be supported to deliver affordable homes.
- Population figures do not support the government's desire to build 300,000+ houses p.a.
- Housing targets should not be nationally imposed – and not by algorithm.
- Local factors should decide local housing need including possible town centre housing provision.
- Land should be treated as the finite resource it is. Brownfield targets should be compulsory.
- NALC supports the recommendations of the Building Better, Building Beautiful Commission.
- NALC supports stronger building regulations to cut new homes' carbon emissions by 80% by 2030.
- NALC supports Local Plans and Neighbourhood Plans adopting local design codes.
- Citizen's Assemblies may have a role in planning. Local councils' role should be expanded.
- Neighbourhood Plans could be extended to cover historical/special architectural buildings.
- New Green Belt should be identified to compensate for the amount lost in recent years.
- Reform the 1961 Land Compensation Act to allow communities to benefit from land values.

Q.1 Is the current planning system working as it should do? What changes might need to be made? Are the Government's proposals the right approach?

A.1 The planning system is not working as it should but the government's proposals do not represent the right approach to rectifying it. (See our parliamentary briefing, Appendix 1).

The planning system has been subjected to consistent attempts over 16 years by succeeding administrations to 'simplify' it, combined with what we contend is a misguided belief that a less stringent system would deliver more housing.

Significant changes were first introduced by the Planning and Compulsory Purchases Act of 2004, which did away with detailed Local Plans and introduced less specific, higher level, Local Development Frameworks. Other significant changes have included the abolition of spatial planning at a regional scale, the abolition of detailed planning policy guidance and the introduction of the National Planning Policy Framework and its update in 2012 and 2018 respectively. The latter introduced statutory housing land requirements which, if not met, invalidate Local Plans and also subsequently introduced Neighbourhood Plans. What has, in effect, happened has been that publication drafts of Local Plans and planning decisions have been more open to challenge from those proposing new developments, who are still the only stakeholders in the process who can appeal planning decisions. NALC wants to see a third party right of appeal introduced for local (town and parish) councils.

Planning is a complex matter and there are important differences in every part of the country in every location. Whilst it is entirely appropriate to have national rules, regulations and standards, it is necessary to have sub-national policies more attuned to each part of the country and, beneath them, very explicit Local Plans and Neighbourhood Plans.

Formerly, the Regional Spatial Strategies set the over-arching housing numbers and brownfield targets for each local authority, which were being met. Brownfield targets should be a requirement of Local Plans.

The Local Plans that existed prior to 2004 supplied significant detail, assisted by supplementary planning documents which included adopted Village Design Statements and Parish Plans that were the results of local community efforts. That said, these did not have the same standing as Neighbourhood Plans. NALC has been hugely supportive of Neighbourhood Plans but has been dismayed to witness so many being cast aside because of principal authorities failing to meet housing land tests and housing number tests.

The need is for a return to a more specific spatial planning system which respects local differences and Neighbourhood Plans and also for mechanisms that enable local authorities to return to providing housing, particularly affordable housing. Meanwhile local councils need more planning 'clout' and the right to appeal planning decisions. The government's current proposals, as laid out in 'Changes to the Current Planning System' and the Planning White Paper are heading in the opposite direction. Using algorithms to produce LPA housing numbers lacks flexibility – as does putting all land in a country as

diverse as England into just two (or three) zones – and removing the established democratic rights of local authorities and local councils to decide/comment upon planning applications is unacceptable.

Amongst the proposals in the Planning White Paper is a temporary lifting of the small sites threshold below which developers do not need to contribute affordable housing. The threshold proposed is 40 or 50 houses. It is worth noting that an investigation prompted by the Local Government Association into this proposal has revealed that, between 2015/16 and 2019/20, some 119,505 private homes were built on sites of between 10 and 50 homes. Based on an average of developers being required to make 25% of new housing affordable, this would have resulted in the building of 29, 876 affordable homes being delivered for either rent or purchase. Removing the requirement, therefore, would lead to a reduction in delivery of tens of thousands of affordable homes. That point made, it is also worth noting that a development of 40 or 50 homes (market or otherwise) can be a lot in a rural community and can alter the character of such an area. This comes back to the need to be able to assess each planning application on its own merit.

NALC contends that there are any number of shortcomings in the Planning White Paper. Our detailed response is on our website: www.nalc.gov.uk . (Our policy positions: Appendix 2).

Q.2 In seeking to build 300,000 homes a year, is the greatest obstacle the planning system or the subsequent build-out of properties with permission?

A.2 Government needs to accept that the open market will not deliver the number of houses it wants to see built because, as Sir Oliver Letwin identified in his ‘Independent Review of Build Out’ in 2018, developers are only prepared to build out their planning permissions at a rate which does not affect the market price in a given area. It is currently estimated by the LGA that there are about a million homes with planning permission that have not yet been built. That said, whilst NALC agrees that there is a need for more homes to be delivered, particularly affordable ones, and it would like to see it made easier for local authorities and local councils to deliver affordable housing, it has an issue with the figure of 300,000 p.a. which it does not believe is a robust assessment. The government should revise its aspirations to ensure they are based on the latest ONS population figures which are showing a downwards trend. Setting the over-arching figure too high means that too much land will be taken for development. Land must be treated as the finite resource it is.

Q.3 How can the planning system ensure that buildings are beautiful & fit for purpose?

A.3 On the matter of design, NALC supports the recommendations of the Building Better, Building Beautiful Commission. As for new buildings being ‘fit for purpose’, we subscribe to there being high minimum environmental standards and minimum areas for living spaces.

We also welcome the announcements made by the Secretary of State for MHCLG on October 1st 2020 when he launched a consultation on stronger building regulations which he said would pave the way for a ‘Future Homes Standard’ that would cut carbon emissions by 80% from 2025 for all new homes. (NALC believes that there is a climate emergency).

The Secretary of State also announced plans on October 1st 2020 for a new national design code and called for every local authority to produce its own design code. These moves are supported. We would also like to see Local Plans and Neighbourhood Plans being more prescriptive on design issues, but we do not want to see less specificity in other policy areas.

Q.4 What approach should be used to determine the housing need and requirement of a local authority?

A.4 What is required is a local, evidence-based approach, not a nationally-imposed target that is not capable of factoring in all the local issues. Local population projections need to come together with local brownfield registers – which include a serious re-appraisal of the potential housing capacity that exists within reduced town centres, windfall estimates and realistic growth aspirations, all of which needs to be considered through a thorough Local Plan process.

Q.5 What is the best approach to ensure public engagement in the planning system? What role should modern technology and data play in this?

A.5 Citizen's Assemblies have been proving to be very effective in, in the first instance, informing a wider populace about subjects such as planning and climate change and, in the second, then extracting from them their opinions. However, there should also be much more effort made by principal authorities to involve local councils in the Local Plan process. Technology has a role, but can be expensive and should not be central.

Q.6 How can the planning system ensure adequate and reasonable protection for areas and buildings of environmental, historical and architectural importance?

A.6 Historic England has official responsibility for listed buildings – but its approach to protecting them has loosened significantly. Historic England's predecessor, English Heritage, employed many more planners than are employed today. They were far more inclined to challenge modern alterations and extensions. However, the current organisation is a shadow of its former embodiment. Its planning role needs to be re-strengthened.

At the local level, mechanisms do exist – such as conservation areas – and have existed in the past. These included initiatives such as Village Design Statements (VDSs) and Parish Plans that resulted in supplementary planning documents and which required a lot of community effort. Sadly, they were often ignored by the principal authorities and have not been renewed following the adoption of new Local Plans. Many of those, particularly the VDSs, sought to highlight buildings of historical, environmental and architectural interest.

The latest incarnation of local planning – Neighbourhood Plans – are not currently focused on historical assets, but on land use and Local Plans are nowhere near as detailed as they used to be. It is now proposed, in the Planning White Paper, that they should be even less specific. Such a move would make it harder to protect buildings of environmental, historical and architectural importance. The need is for more specificity, not less. But, if there is a move to either extend the remit of Neighbourhood Plans to

cover protection for special buildings as well as some land areas, or, if it is decided to evolve a new type of local planning initiative which serves that purpose, then it is essential that the resulting plans are given a higher degree of certainty than they currently possess. Many local communities, after putting in years of effort to produce Neighbourhood Plans, have been crushed when their plans have been overturned because the principal authority is deemed not to have an adequate supply of housing land or is not meeting its centrally-imposed housing numbers.

Q.7 What changes, if any, are needed to the Green Belt?

A.7 Despite successive administrations declaring their support for the Green Belt, it has been and is being continuously and remorselessly chipped away at.

In 2018 a report by the Campaign to Protect Rural England (CPRE) showed that 460,000 homes were due to be built on land released from Green Belt and 72% of them were not 'affordable'.

MHCLG's own recent statistics revealed that 15 local authorities adopted Local Plans that involved a reduction in Green Belt land in 2019/20 – the highest number since their records began on this subject nine years ago.

The need is not just to protect that Green Belt which already exists – which is clearly diminishing – but for new Green Belt to be identified, especially in view of the current pressures on land.

Q.8 What progress has been made since the Committee's 2018 report on capturing land value and how might the proposals improve outcomes? What further steps might also be needed?

A.8 We can endorse here the 2019 report by the housing charity 'Shelter' which presented a case for land reform in England. 'Grounds for change' by Rose Grayston (https://england.shelter.org.uk/__data/assets/pdf_file/0010/1779418/Grounds_For_Change.pdf) highlighted how, over the last 50 years, a system has evolved whereby almost every piece of land for new homes is maximised to deliver the highest possible return for the landowner. Almost all land value – which is created by infrastructure, communities and the granting of planning consent – flows to the landowner. It asked the question, what if the increased value of land with planning permission was more evenly shared between communities and the landowner? Could we then address our housing emergency?

The Shelter report highlighted the campaigns by a number of organisations which were calling on government to take the action needed to bring down land prices and it called for the government to reform the Land Compensation Act of 1961. The publication featured a collection of essays from leading thinkers of housing who were each asked to address the question: 'What could be achieved in a world where land comes into development at a lower value?' Contributors included the Chairman of the parliamentary select committee which has prompted this call for evidence, Clive Betts, MP. He drew attention to the increases in land values once planning permission for residential use is granted, pointing out that the average value inflated by 120 times. He summarised the key recommendation in the Committee's 2018 report, which was: "We believe that the Compensation Act 1961 requires reform

so that local authorities have the power to compulsorily purchase land at a fairer price. The present right of landowners to receive ‘hope value’ – a value reflective of speculative future planning permissions – serves to distort land prices, encourage land speculation and reduce revenues for affordable housing, infrastructure and local services”.

We concur that it should be possible to find a way for communities to benefit from the inflated land values which result once residential planning permission is granted.

October 2020

Appendix 1

7 OCTOBER 2020

PARLIAMENTARY BRIEFING | HOUSE OF COMMONS DEBATE ON PLANNING REFORM AND HOUSE BUILDING TARGETS IN RELATION TO THE WHITE PAPER, 8 OCTOBER 2020

Summary

- The National Association of Local Councils (NALC) is the nationally recognised membership and support organisation representing around 10,000 local (parish and town) councils and many parish meetings in England.
- NALC agrees with the government that the planning system could be improved and should have more emphasis on building design and we endorse the recommendations in ‘Living with beauty’ published by the Building Better, Building Beautiful Commission.

- However NALC is urging the government to re-think the changes it has proposed in the Planning White Paper and in 'Changes to the Current Planning System'.

- The proposed changes would result in a democratic deficit and would not tackle the key issue slowing down the delivery of more housing that was identified by Sir Oliver Letwin in his report 'Independent Review of Build Out' where he identified the key problem was the market absorption rate, namely the rate at which builders were prepared to deliver homes which would ensure their market price in any given local area was not affected in an adverse manner.

- NALC also agrees with the LGA that the main cause of the lack of affordable housing in England has not been caused by a broken planning system, but by a broken housing delivery system.

- Key areas of concern we have regarding the White Paper are:

- Standard Housing Needs Assessment methodology

- Infrastructure

- reduction of democratic accountability

- abolishing the duty to co-operate

- how neighbourhood planning fits in

- lack of clear direction on climate change and health and well-being.

- The White Paper's proposals come on top of a significant extension to permitted development rights and they:

- Dictate the amount of housing each Local Planning Authority (LPA) has to deliver, based on an algorithm geared to delivering over 300,000 housing units per year – despite a lack of verisimilitude for that over-arching figure and despite falling population projections.

- Require LPAs to divide all land into one of three (or possibly only two) zones, ensuring that the two development zones ('Growth' and 'Renewal') together are large enough to accommodate the housing they have been instructed centrally to supply, thereby forcing the LPAs to not place land in the 'Protected' zone which would be worthy of being there.

- Allow only 30 months for the evolution of and consultation on Local Plans and thereafter remove from principal authorities the right to decide on planning applications on a case by case basis and the right of local councils to comment upon them.

- Abolish Sustainability Appraisals and question the 'Duty to Co-operate' between neighbouring local authorities and Strategic Environmental Assessments.

- Do nothing to strengthen Neighbourhood Plans and stop them from being overturned when principal authorities cannot meet housing delivery numbers or any land tests that may apply and do not tackle the community capacity problem if they have to be reviewed five-yearly.
- Do not recommend that a percentage of the income to LPAs from developers is automatically distributed via local councils for the benefit of their local communities.
- Do not align with the climate change agenda (for information NALC has declared a climate emergency and more information on this work can be found [here](#)).

More information and contact

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Appendix 2

POLICY POSITIONS ADOPTED BY NALC POLICY COMMITTEE ON OCTOBER 6TH, 2020

- in connection with the Planning White Paper:
 1. NALC has signed up to the proposition that there is a climate emergency and will therefore, as a general principle, promote and support moves and policies which help to mitigate it. For instance, NALC supports the need for Local Plans and large developments to be subject to environmental appraisals and it supports energy efficient homes and more trees.
 2. NALC will support a planning system which incorporates a significant role for local councils. It will not support any diminution of town and parish (local) councils' statutory right to comment on planning issues at all stages of their evolution, whether they be development planning matters or spatial planning policies.
 3. NALC will support a soundly based planning system which represents the most reliable tool for the sustainable allocation of land and which represents the three pillars of sustainability equally, i.e. social, economic and environmental factors.
 4. NALC will support changes to the planning system which it perceives will strengthen the system and the voice of democracy and lead to better quality, appropriately sited developments. It will not support planning changes which it perceives will work in the opposite direction.

5. NALC would support a very much strengthened version of the 'duty to co-operate' between neighbouring local planning authorities or an alternative policy which made it compulsory for neighbouring LPAs to work in close co-operation with each other on spatial planning.
6. NALC does not support an across-the-board extension of permitted development rights in the planning system. Policies on permitted development rights should be the prerogative of LPAs in their Local Plans or Neighbourhood Planning Groups.
7. NALC supports the recommendations of the Building Better, Building Beautiful Commission.
8. NALC recognises the need for more affordable housing and would welcome initiatives that would enable LPAs and local councils to deliver some. In addition, NALC would like to see more housing delivered that is suitable for the disabled and those with mobility impairments and also a range of different types of tenures facilitated.
9. NALC wants to see a fair infrastructure levy system which gives local councils a voice and benefits them financially so that they in turn can deliver more for their local communities.
10. NALC has concerns about housing tests based on standard methodologies / algorithms. It wants to see a planning system which recognises that every planning application and every location is different.

Yours sincerely,

CLlr Sue Baxter, Chairman of NALC © NALC 2020.