

Written evidence submitted by Pocket Living [FPS 023]

1. A POSITIVE, PRAGMATIC AND PROPORTIONATE PLANNING SYSTEM

- 1.1 We agree with the Government that if we are to deliver the homes we need, and higher quality homes supported by the infrastructure communities need, the planning system needs to be fundamentally reformed. It is undeniable that it takes too long to get planning permission; and after considerable time and investment decisions are uncertain and can be subject to political caprice, with the quality of resultant development often mixed, at best.
- 1.2 As a developer of small sites our principal concern is that there is no proportionality in the planning system. Policy is one size fits all with fifty homes on an urban infill site addressing the same policies as a major mixed-use regeneration project with hundreds or thousands of homes. Any reform of the planning system must address this as a starting point.
- 1.3 Small developers are disproportionately affected by the time it takes to get planning permission where the increased cost from delays to determination can mean the difference between profit and loss. A more certain, faster planning system will encourage more players to deliver development on small sites, increasing housing delivery and economic activity.
- 1.4 We recognise that a discretionary system is only as good as those exercising discretion, and that there are many cases of poor decision making stopping or diminishing good development. A rules-based system would provide greater clarity and certainty, but planning is an art not a science and there needs to be room for pragmatism and to respond to site and changing circumstances.
- 1.5 Fundamental principles for a new planning system:
 - A proportionate approach to small sites with policy that differentiates and recognises physical and economic constraints.
 - A programme of culture change with positive and timely engagement from all parties including statutory consultees, focusing on making development acceptable, rather regulation.
 - Firmer deadlines especially post-planning committee (S106 and conditions)
 - Deemed consent extended to all planning conditions.
 - An even playing field for affordable housing with CIL relief mandated for all DMS homes.
 - A stronger basis for Permission in Principle so it is a real option and expedites planning on small sites:
 - Encourage landowners and developers to propose sites for PIP that are less than 0.25 hectares, brownfield, and close to transport/local amenities;
 - Only allow local authorities to refuse the designation where the impact of residential development can be robustly shown to outweigh the benefits of housing delivery and of reusing brownfield-land;
 - Tenure simplicity by amending the NPPF to require 40% intermediate affordable housing provision or a payment in lieu on these sites;
 - Ensure that the technical consents stage of PIP is an objective assessment akin to prior approval, assessing technical reports and not making discretionary and subjective decisions against the local plan;
 - Firmer deadlines for S106 agreements.

OUR RESPONSE

1.6 Our response addresses those areas most relevant to a small sites' specialist and developer of affordable homes. We support the overall thrust of the proposals and have highlighted where we consider where further detail or consideration is required to make the proposals a success. Planning is a highly complex eco-system and the history of planning reform includes well-intentioned reforms leading to unintended consequences. With the economic challenges of the pandemic, it is more critical than ever to ensure that changes to the planning system result in fast and positive impacts.

Pillar One: Planning for development

- As development management policies move to the NPPF, they must evolve from a one size fits all approach and embrace the principle of proportionality. Sites should be designated according to size (micro, small to medium and large sites) with policies couched to reflect this.
- Local plans and codes must be deliverable and viable and reflect the housing requirement. Codes should be prepared in tandem with the local plans to ensure they will deliver the homes needed and be viable.
- Site characteristics and changed circumstances will mean that not all applications will be able to meet local codes/designations, it is important that this is recognised, and planning applications are not penalised.
- Improved reporting on planning decision making would increase transparency and lead to better understanding and faster determination. Local authorities should report on the time taken to make all planning decisions, from the first pre-application meeting, to the date of submission and validation, the date of planning committee and the date that the planning permission is issued.

Pillar Two: Planning for beautiful and sustainable places

- Local codes should be prepared in tandem with the local plans, should encourage innovation and must be tested to ensure that they will deliver the homes needed and are viable.

Pillar Three: Planning for infrastructure and connected places

- The levy must be fair, simple and predictable. The mandatory exemption for First Homes and shared ownership should apply to all discount market sale homes.
- The levy must be based on value created through planning (i.e. the difference between existing use value and the GDV of development), and not just development value, otherwise it is just a tax on development in higher value areas.
- The levy rate must be realistic and underpinned by the need for development to be viable and deliverable.
- Payment on occupation, when revenue is realised from development, will greatly assist small developers for whom cashflow is critical.
- The inclusion of affordable housing in the levy ensures delivery but will add significant complexity to the levy, and risk to developers, further work is needed to ensure this can be mitigated.
- The levy rate should be varied across different areas and uses and for greenfield and brownfield development. This would still be relatively simple to administer but more equitable and effective than a single national rate.
- Delivering the infrastructure needed to support new homes and communities is important to making development acceptable to communities. It is therefore critical to ensure that the new levy ensures the timely delivery of infrastructure.
- The levy should be prioritised for infrastructure and affordable housing. We do not support the levy being used to fund other council services.

DELIVERY

- We welcome the development of a comprehensive planning resources and skills strategy which will be critical to the successful implementation of the planning reforms and the creation of a positive, proactive and proportionate planning system that delivers the homes we need. The strategy should address all those engaged in planning decisions including statutory consultees promoting a culture of problem-solving rather than regulation.

2. PILLAR ONE: PLANNING FOR DEVELOPMENT

Proposal One

- 2.1 We support simpler, standardised and faster to adopt local plans. Local plans are the cornerstone of the planning system and it is important that they are positive, clear and current.
- 2.2 Whilst there is simplicity and clarity in having three designations for land (growth, renewal and protect), in many urban areas the position will be more nuanced and granular. Small brownfield sites are infill sites such as former garages, shops or car parks, and could be within an area that is otherwise designated for protection. Developing these sites repairs the local fabric, improves the character and delivers new homes and economic growth, and should therefore be positively supported. A further category of 'urban regeneration' could capture such areas.

Proposal Two

- 2.3 We agree that there is no need for every local authority to have separate development management policies, in addition to the NPPF, and it makes sense for policy to be established at the national level. Fundamental to this must be a more proportionate approach in policy which recognises that all sites are not the same and small sites cannot physically and economically meet the same policies as large sites. We therefore suggest that, in addition to Growth, Renewal and Protect areas, the Government considers policy differentiation for micro (fewer than ten homes), small to medium (less than 0.25 hectares) and large sites (larger than 0.25 hectares).

Proposal Three

- 2.4 We agree that local plans should be subject to a simpler test of 'sustainable development.' It is critical that this includes deliverability to ensure that the local designations and codes support delivery of the new homes in the housing requirement.

Proposal Four

- 2.5 We support the principle of a standard methodology (taking in to account local constraints) to establish housing requirements and that this should be binding on local authorities. There should be clarity on the implications for authorities where the housing that is identified as being needed is not delivered.
- 2.6 It is critical that the delivery of the homes needed is reflected in designation of areas for growth and renewal and that the scale of development is reflected in the local codes.

Proposal Five

- 2.7 We support the principle of automatic grant of outline planning permission in growth areas and automatic approvals for pre-established development types in other areas suitable for building.
- 2.8 Outline planning permissions are supported by substantial evidence and assessments to support the principle, assess the impacts and address how they will be mitigated. This could slow down the preparation of local plans.
- 2.9 In renewal areas a presumption in favour development requires significant power to ensure that the subsequent approval process is on the detail of impact rather than principle of development. We have outlined our proposals to improve permission in principle in section 3 of this response.
- 2.10 In both cases, it is critical that the expectations and designations are realistic about what can be delivered feasibly and viably, and that where subsequent permissions require adjustment to reflect circumstantial changes, practical realities or economic circumstances, this is recognised and supported and not penalised.
- 2.11 Where applications are brought forward that do not accord with the local plan proposals, where this is justified and reasonable, the applications should be assessed in a positive, pragmatic and timely manner.
- 2.12 In complex urban areas there will be appropriate and positive development opportunities in areas designated for protection and these applications should be supported and dealt with positively.

Proposal Six

- 2.13 We strongly support faster and more certain decision making with firm deadlines and making greater use of digital technology. The Lichfields research has highlighted just how long it takes small sites to get planning permission. This is a drag on development, suppresses housing delivery and forgoes opportunities to improve local character and streetscape and for economic growth.
- 2.14 Even though our sites are small, it is now commonplace to agree planning performance agreements with local authorities. These are costly and do not speed up the decision-making process. In addition to paying for officers' time, we pay for consultants to advise the council, including lawyers. This is extremely costly.
- 2.15 Under such arrangements the determination deadline is frequently extended and is only measured up to the point of committee. This means that many applications are not judged in assessments of local authority performance and that measurements do not take account of securing an implementable permission.

2.16 We suggest that the Government requires local authorities to report on the time taken to make all planning decisions, not just those within the traditional statutory timeframes. This should note the time of the first pre-application meeting, the date of submission and then validation (as this can be unduly long), the date of planning committee and the date that the planning permission is issued. The Government may also wish to report the date of clearance of pre-commencement conditions as this is when development can commence.

2.17 The time taken to deliver an implementable permission should form part of the consideration of local authority planning performance. This is a change that can be made now in advance of other changes to the system.

2.18 We support proposals to incentivise the determination of planning applications within the statutory time. Given the prevalence of planning performance agreements measures need to be applicable in these circumstances too, especially as applicants will have spent a considerable sum on the agreement. We support the proposal for an automatic refund of the planning application fee where deadlines are not met. We would also welcome deemed consent on applications where there has not been timely determination. Any measures will need to guard against the temptation to refuse applications to meet deadlines. Whilst applicants would have the redress of an appeal, this is a time consuming, costly and uncertain process.

Proposal Seven

2.19 We support more visual and map-based local plans which are standardised, based on the latest digital technology, and with a new template.

Proposal Eight

2.20 We support the statutory timescale to adopt local plans, but have highlighted that this might be challenging given the information required to grant outline permission in growth areas, and the need for local design codes to be prepared in tandem to ensure deliverability.

2.21 Given the importance of local plans they should be independently scrutinised and examined by the planning inspectorate. There should be an automatic right to be heard at examination.

Proposal ten

2.22 We support a focus on the delivery of development as well as local plans and planning permissions. We agree that developments containing a mix of typologies are likely to be built out faster. This requirement should only apply to large developments and should be applied sensitively and proportionately and focused on growth areas. An urban extension or major regeneration project in a growth area will have greater ability to accommodate a mix of uses than a development of 200 homes in a renewal area.

3. PILLAR TWO – PLANNING FOR BEAUTIFUL AND SUSTAINABLE PLACES

3.1 Pocket Living places good design at the heart of our developments and has won many awards and plaudits. Our developments are on small infill sites and have the potential to improve the local streetscape and character. We agree that planning reform should improve the quality of development as well as the planning process.

Proposal Eleven

- 3.2 Design codes have the potential to provide greater clarity to applicants and speed up the planning process. Community engagement is important in shaping design codes, but it is critical that there is a practical and realistic approach to what can be delivered, flexibility to encourage innovation and scope for change –not seek to prevent change and set areas in aspic. Good design is not necessarily replicating what is already in an area in form or look. Attractive and popular areas are not uniform and evolve over time.
- 3.3 It is important that design codes encourage innovation. Some of the most celebrated buildings and places are innovative designs that complement the character of the local area, design codes need to ensure that this can still happen.
- 3.4 The need to deliver new homes is universally recognised and supported, even if not at a local/site level. The introduction of binding housing targets is important in ensuring that we make up for years of under-delivery and the country delivers the homes that it needs. Clearer, simpler and more current local plans will be important in supporting delivery. Local codes will need to be developed at the same time as the local plan to ensure that the local housing requirement is deliverable in absolute terms as well as economically. It is therefore critical that local codes are carefully scrutinised and tested to ensure that they support the area designations and delivery of the housing requirement.
- 3.5 It is often the case that the capacity for development is not possible to fully understand without detailed master planning and impact assessments. There will be instances where an application may not accord with the local code but is for appropriate and acceptable development. This may be because the applicant and design team have access to more detailed information about the constraints of a site (for example the location of services or existence of covenants), or identify the opportunity to deliver development in a different way, or economic or other circumstances have changed. Such applications should be approached positively and not be penalised.

Proposal Twelve

- 3.6 We welcome the proposals for the new design body and are delighted that it will be led by Nicholas Boys-Smith who has shown such drive, commitment, and dedication to improving design quality.
- 3.7 The design challenges of small sites are very different to those of major development and regeneration projects. Pocket has a long track record of delivering attractive, award-winning development on complex and constrained sites. We would be keen to share this experience with the design body, as well as the practical challenges of developing such sites.

Proposal Thirteen

- 3.8 As a partner of Homes England, we welcome proposals to further embed national leadership on delivering better places and give greater emphasis to delivering beautiful places. Homes England has a pivotal role in delivering the homes the country needs, especially at a time of such economic uncertainty.

Proposal Fourteen

- 3.9 We support the principle of a 'fast track for beauty' but it will only be effective if the codes upon which it is based are realistic and deliverable. It would be counter productive and frustrating for local communities if no applications are able to come forward against local codes. It is therefore critical that the expectations and requirements are grounded in practical reality and deliverability.
- 3.10 Local 'pattern books' and form-based development types will need to address the range of building types i.e. blocks of flats as well as individual houses and be tested to ensure that resultant development is viable. It would be a lost opportunity if they prevent design innovation and simply replicate what is there.

Proposal Fifteen

- 3.11 We support changes to the NPPF so that it most effectively plays a role in mitigating and adapting to climate change and maximising environmental benefits. Policies on energy and sustainability should be established through national policy and local authorities should not be able to seek separate standards.

4. PILLAR THREE – PLANNING FOR INFRASTRUCTURE AND CONNECTED PLACES

- 4.1 Timely infrastructure delivery is critical to delivering new homes and gaining community support for development. This requires both the effective raising of funds and delivery of infrastructure. The Community Infrastructure Levy has proved to be both complicated and challenging.
- 4.2 As a company delivering grant-free affordable housing we would expect our homes to be exempt from the levy. As most developments are now mixed use, any commercial element would be liable, and it is therefore important that the levy is fair, simple and predictable to inform land purchase and incentivise development.
- 4.3 If the Government is to achieve delivery of the homes the country needs, that are high quality and in beautiful places, the levy must be set at a realistic rate that recognises the need for development to be viable and deliverable.
- 4.4 For urban brownfield development, especially in an area like London, sites will have an existing use and value, development will only happen if the value of the new development exceeds this with an incentive for both the developer and the land owner to release the site. A levy that just focuses on end value, rather than value creation as a result of planning/development, could remove the incentive to release land for development.
- 4.5 A levy based on value could incentivise development that minimises costs and lead to poorer quality development.
- 4.6 In developing proposals for the levy, it will be important to consider:
- Different rates according to land use, area and for brownfield sites
 - Ensuring the rate does not make development unviable
 - Clarity over the process to review the rate
 - Incentivising high quality development
 - The balance between including affordable housing within the levy and raising sufficient funds for infrastructure delivery
 - Addressing the risk of value changes between the grant of permission and occupation of the development, making developments unviable
 - Ensuring timely delivery of infrastructure

Proposal Nineteen

- 4.7 It is too simplistic to just tax development value as that would effectively be a tax on high value areas. Any levy must be related to the value created. A green field development could generate far more value, and requirement for infrastructure, than an infill site in a high value area; but the development value of the latter could be higher.

- 4.8 A tax where the yield is focussed on high value areas (London and the south east) will not raise revenue in low value areas to support the infrastructure needed
- 4.9 S106 agreements include legal requirements beyond financial contributions (employment and training, open space etc) which will need to be maintained. There is no need for S106 agreements to take as long as they do, especially as the heads of terms are included in committee reports. The length of time taken to negotiate S106 agreements on small sites is highlighted in the small sites research. This can be due to a lack of impetus post-committee, poor co-ordination within the council, or a lack of urgency or resources.
- 4.10 It is critical that S106 agreements do not slow down the grant of planning permission. This can be rectified simply by introducing deadlines for their negotiation. It is standard practice for applicants to pay authorities' legal fees, with the service often outsourced, but this does not result in a faster or better service.
- 4.11 We agree that the levy should only apply above a threshold. It will be important that this is established simply and quickly, avoiding the lengthy debates and negotiations common now with viability assessments. The small sites research shows the drag on planning created by the viability assessment process. It may be simpler to exclude developments below a certain scale.
- 4.12 The mandatory exemption for First Homes and shared ownership should apply to all intermediate affordable homes including discount market sale homes.
- 4.13 We agree that the levy rate should be mandatory but consider that it is not possible to have a single national rate given the wide variation in land values and costs. The Mayor's Crossrail CIL is relatively simple and varies across areas. The levy rate should also be differentiated across different uses. This would still be relatively simple to administer but more equitable and effective.
- 4.14 The process by which the rates would be reviewed should be established at the outset, so it is clear and transparent.
- 4.15 We agree that the levy should be charged on occupation as this is when the value is realised. This is particularly important for small developers for whom cashflow is more constrained.
- 4.16 Consideration is required on how authorities can ensure timely delivery of infrastructure when payment is made later in the process.

Proposal Twenty

- 4.17 We agree that the new infrastructure levy should capture changes of use delivered through permitted development as these homes will need/benefit from infrastructure delivery.

Proposal Twenty-One

- 4.18 Whilst the inclusion of affordable housing in the levy ensures delivery, it will add significant complexity, and risk to developers. Further work is needed to ensure this can be addressed.
- 4.19 The inclusion of affordable housing within the levy will mean that authorities will no longer trade off affordable housing and the levy. The true cost of delivering the affordable homes will need to be understood at the outset. This can vary considerably according to tenure, size and affordability.
- 4.20 It will be very complicated, at application stage, to work out the value of different affordable home types and the discount to market value, to then be netted against the levy liability. If the market value then falls, it may not be possible to simply change the tenure of homes to market homes.
- 4.21 A nationally set floorspace requirement would not have regard to the mix of homes needed in an area.

Proposal Twenty-Two

- 4.22 Delivering the infrastructure needed to support new homes and communities is important to making development acceptable. If the levy rate is set too high, it will prevent development coming forward and not raise the funds needed. It is therefore critical to ensure that the new levy ensures the timely delivery of infrastructure. We do not support the levy being used for other council services.

5. DELIVERY

Proposal Twenty-Three

- 5.1 We welcome the development of a comprehensive planning resources and skills strategy and consider that it will be critical to the successful implementation of the planning reforms and the creation of a positive, proactive and proportionate planning system that delivers the homes we need.
- 5.2 The culture of the planning system is fundamental to its effective operation. Too often it is cultural rather than policy matters that delay planning applications, for example time lost when it is not possible to contact officers, advice that changes after designs have been committed to, poor co-ordination and unclear prioritisation within councils and deadlines being missed.
- 5.3 It is critical that the resources and skills strategy addresses all those engaged in planning decisions including statutory consultees.
- 5.4 Whilst planning departments have suffered cuts in recent years, planning application fees are significant, and many applications entail a substantial planning performance agreement. The different experience between, and even within councils, is not just a matter of differences in resources but of culture, approach and leadership.

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