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The future of the planning system in England

Introduction

This is an official response to the MHCLG Select Committee from the Place¹ strand within the UK Collaborative Centre for Housing Evidence² (CaCHE). The views contained in this report are not those of CaCHE as a whole. The response primarily draws upon the recently completed MHCLG-sponsored research project titled, “Delivering Design Value³” (White, Kenny, Samuel, Foye, James and Serin). The project traces the critical stages in the planning, design and development process for new housing, focusing on where ‘design value’⁴ is typically delivered and highlighting the points at which the opportunities to deliver ‘design value’ are often missed.

The research looked at ten recently completed new-build housing developments spread over five case study local authorities. The research entailed site observations, document analysis, and over 50 semi-structured interviews with key personnel involved in the planning, design and delivery of the housing developments, including developers, architects, land promoters, local authority planning officers, local councillors and planning consultants. The case studies spanned the UK, and although our recommendations in this response are focused on England, we refer to examples from the devolved nations where relevant. Throughout our response, we have cited findings from the draft report **in bold**. The final report is due to be published in November but we are happy to share the draft version with the Select Committee (see contact details below).

The White Paper (WP) proposals are ambitious and understandably general in scope. Based on our research findings, we believe there are a series of key issues that need further consideration. We focus specifically on what the proposals are likely to mean for delivering design value, and therefore do not consider other impacts or outcomes, such as affordable housing contributions. We address the following questions: [Q1](#), [Q3](#), [Q4](#), [Q5](#).

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² The [UK Collaborative Centre for Housing Evidence](#) (CaCHE) is a consortium of 14 institutions led by the University of Glasgow. The centre, which was established in August 2017, is a multidisciplinary partnership between academia, housing policy and practice. It produces evidence and new research focused on tackling the UK’s housing problems at a national, devolved, regional, and local level. CaCHE is funded by the [Economic and Social Research Council](#), [Arts and Humanities Research Council](#) and [Joseph Rowntree Foundation](#).

³ <https://housingevidence.ac.uk/our-work/research-projects/delivering-design-value>.

⁴ See “Design value at the neighbourhood scale: What does it mean and how do we measure it?” by Serin et al., (2018), https://housingevidence.ac.uk/wp-content/uploads/2018/11/R2018_04_01_Design-Value.pdf

Response to Questions

Q1. 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?

The main proposal in the White Paper is to move from a discretionary based planning system to a rules based system (a form of hybrid zoning). Under the proposals, the local authority will be assigned the sizeable task of writing up the local plan and design codes, and reconciling or trading off the different conceptions of design value. Based on our research, we can see considerable benefits with focusing local authority resources on design-based plan-making:

- In theory, it could allow local authorities and other relevant government agencies to approach plan-making in a more concerted and coherent fashion, potentially transcending the professional siloes that we identified in our research (**p.67 & p.98**). Highway design, for example, could be integrated into the plan-making process rather than standing outside it (**p.68-69**). Local authorities could be more strategic and design-focused in planning neighbourhoods, making decisions with the long-term planning of the local authority in mind, rather than on a case-by-case basis (**p. 69**).
- Potentially, the zones could be defined and mapped out using a strong evidence base that includes social, environmental and economic value, what we call design value. Although not part of our project, the Mapping Eco Social Assets team (which includes Flora Samuel) have set out a methodology for developing social value maps with the [community](#) which has been cited as good practice in a recent Greater London Authority 'Insights' paper.

Our major concerns with the proposals are covered below in our responses to Questions 3, 4 and 5.

Q3. How can the planning system ensure that buildings are beautiful and fit for purpose?

In Chapter 7 of our draft report (attached), we present a range of recommendations for how the planning system could deliver design value. Here, we focus on three areas in particular which are pertinent to the White Paper proposals.

Design codes

As part of the shift towards a rules-based system, the WP proposes the introduction of 'more binding' local and national design codes, as well as site specific design requirements for each of the areas zoned for 'renewal' or 'growth'. It is not clear how prescriptive these codes will be or how much weight they will have. Nonetheless, based on our research, we can offer some provisional reflections.

There are considerable arguments in favour of local and national design codes, which make us generally supportive of them. By setting design expectations in stone, they can provide developers with certainty, ensuring that they do not over-bid for development land (**p.13 & p.81-82**). By making certain design requirements non-negotiable, they can ensure that all new development meets a base-line standard, especially environmental standards which were often overlooked by our

participants (**p.64 & p.102**). Robust design policy also allows local authorities to demonstrate the seriousness of their design governance aspirations and provides a critical 'starting point' for discussions with housebuilders (**p.65**). There are, however, a number of drawbacks with fixed design codes and rules based systems which need to be carefully considered:

- First, there is a risk that by constraining discretion, design codes could potentially undermine expertise.
 - In Northern Ireland, to receive grant-funding, social housing must meet certain design standards, as set out by the Department for Communities. While this guarantees certain standards are met it can also tie the hands of architects and urban designers (**p.84**).
 - On the other side of the coin though, our research also demonstrated that discretion is one of the principal reasons why bad or politically motivated decisions about design are taken. Well-written design codes, generic or site based, could provide better design control than an officers' discretionary judgement.
 - A fine balance therefore exists between relying on rules and relying on expertise. This is especially pertinent to smaller brownfield sites, which typically require a more 'bespoke' solution (**p.20**), but also applies to greenfield sites where expertise and flexibility maybe needed to adjust design to the state of the market (**p.89**).
- Second, in low value areas, if viability calculations take precedence then design codes may be watered down to such an extent that they become blueprints for mediocrity (**p.79**).The proposed national design code will provide a base-level but, given the level of generality it works at, it is unlikely to be sufficient (**p.77-78**) Some other form of monitoring would be useful. We welcome the WP's proposal to establish a new expert body which can help authorities make effective use of design guidance and codes.
- Third, a more general concern with design codes and zoning regulations lies in their implementation. The dilution of design value through 'value engineering' is already a problem in the existing planning system, and we are concerned that it will also undermine the proposed rules-based system.
 - Frequently, design value would be diluted through a series of reserve matters applications (**p.92**), and changing the design team after planning permission has been granted (**p.74-75; p.92-94**). In our case studies, dilution of design value was usually justified by the developer using viability arguments. These viability appraisals are usually confidential, and local authorities lacked the skills to interrogate them (**p.81-82**).
 - It should not be assumed that zoning plans will necessarily resolve this problem. There is a risk that developers contest the guidelines and codes on the basis of viability, or argue for alternative interpretations⁵.To address these issues of 'value-

engineering', formal 'down-stream' design governance tools like enforcement action need to be afforded the same attention by regulatory actors as 'up-stream' tools that are associated with awarding planning permission **(p.100)**. A formal and compulsory post-occupancy evaluation process should be one part of this enforcement process.**(p.105)**. This would also help us understand 'what works' in terms of housing design and to monitor the performance of housebuilders **(p.100)**. Finally, a market downturn should not be used as justification for the dilution of design value. Developers demand very high profits precisely because development is risky. Allowing them to dilute design when the market turns bad⁶ essentially amounts to a state subsidy to mitigate this downside risk (whilst leaving the upside return intact).

Design leadership

Our research clearly indicates that design leadership can make a substantive difference **(p.66)**. We therefore welcome the WP proposals to ensure every local authority has a chief officer for design and placemaking. If properly resourced, this could give local authority officers the confidence to make bolder decisions when exercising design discretion **(p.102-103)**. At the same time, however, the appointment of a single officer should not be seen as a panacea. Local authorities need much more resources if they are to undertake proper design governance such as detailed design briefs, site-specific guidelines or post-occupancy evaluation **(p.70)**.

Increasing competition in the housebuilding market

We believe that volume housebuilders (VHB's) have too much hold on the market. Our interview respondents were of the view that smaller developers are more likely to produce well-designed homes and neighbourhoods than volume housebuilders, who, on the whole, tend to be singularly driven by profit and are most interested in identifying 'the path of least resistance' to gaining planning permission **(p.72)**.

We therefore welcome the WP's proposals to allow local planning authorities to identify sub-areas for self- and custom-build homes. In our report, we also make a number of other proposals for increasing competition in the housebuilding market: require a minimum number of small or medium-sized developers on larger multi-developer sites **(p.101)**; allocate a wide range and mix of housing sites in local plans, at different sizes and scales, and in different locations, to achieve a balance of tenures and dwelling types **(p. 102)**; provide local authorities with the resources to assemble and prepare sites for development so they can assume long-term stewardship over larger housing sites and accelerate build out rates in the public interest **(p.101)**.

⁵ See "Can extended use of simplified planning instruments unlock development?" by Dr. Edward Shepherd (2020) <https://www.tcpa.org.uk/Handlers/Download.ashx?IDMF=f53db0a4-b78d-4898-80e4-647080dad84b>

⁶ As happened with the reduction of affordable housing contributions during the 2008 financial crisis – see Crosby, N. (2019). Development viability assessment and the provision of affordable housing: a game of 'pass the parcel'?. *Town Planning Review*, 90(4), 407-429.

However, we are concerned that if the land ultimately zoned for ‘growth’ or ‘renewal’ is already owned (or ‘optioned’) by VHB’s or large-scale landowners then they will have ultimate control over who builds it out and over how long. Relatively democratic landownership therefore seems to us a prerequisite for competitive housebuilding. We therefore welcome the WP’s proposal to improve the data held on contractual arrangements used to control land but this should be done before the reforms are implemented rather than after.

Q4. What approach should be used to determine the housing need and requirement of a local authority?

We accept the imperative to build more homes in the South and East of England. Past experience (e.g. Regional Spatial Strategies), however, suggests that for housebuilding targets to be politically sustainable, they need to have the support of the local community. We are concerned that by imposing extremely ambitious housing targets, central government will place local authorities in a double-bind - trapped between the irreconcilable demands of central government and local democracy (**see Q5**).

Of course, the premise of the WP is that these demands - local democracy and high housebuilding - are reconcilable provided that housing is well-designed and sufficient infrastructure is provided. However, this is to overlook the over drivers of NIMBYism, including concern over: affordability of new supply for local people; building over green spaces; noise and disruption associated with development; and, the potentially detrimental effect of new supply on local house prices⁷.

One possible outcome of these reforms could be that the local housing targets are dropped because of their political unpopularity while the rules-based system remains but is used to constrain and displace supply⁸.

Q5. What is the best approach to ensure public engagement in the planning system? What role should modern technology and data play in this?

In our research, neither developers nor local authorities were very interested in involving the community. Many of the participants downplayed the role of community engagement in shaping design outcomes. There was no evidence that the local authorities or housebuilders were engaged in co-design or other forms of bottom-up engagement with communities (**see p.86-87**). There is a risk that, by removing one of the two stages of democratic oversight, these proposals will exacerbate this democratic deficit and exacerbate power inequalities:

- We know from our research that landowners, land promoters and developers invest significant resources to influence the plan-making process (**p.79-80; p.88-89**). On the other hand, either because of a lack of opportunity or a lack of interest, the community itself only

⁷ For example, see survey results from Shelter <https://blog.shelter.org.uk/2015/01/the-strange-death-of-nimby-england/>

⁸ This is how zoning works in much of America e.g. Glaeser, E. L., & Gyourko, J. (2002). *The impact of zoning on housing affordability* (No. w8835). National Bureau of Economic Research.

tended to engage later on in the development process, if at all. This suggests that engaging the community as a whole in the development of local plans will be a difficult and resource-intensive task (p.98).

- For meaningful community engagement to take place, local authorities will have to act as impartial mediators between the (diffuse) interests of the local community and the (more concentrated) interests of landowners, land promoters and developers. We have concerns that local authorities may not be willing or able to perform this mediation role impartially, particularly in low-income areas. Without careful consideration, these proposals therefore risk reinforcing existing power imbalances in the planning system. Our reasoning, based on the findings of our research, is threefold:
 - First, heavy cuts to local authority budgets have forced many local authorities to cut back on design expertise and outsource planning responsibilities to the private sector, potentially accentuating the power of vested interests⁹ (p.74). To address this concern, it is essential that community engagement is properly funded through planning application fees or planning obligations (p.108).
 - The second reason is more structural and therefore more difficult to resolve. In low-income areas, local authorities are reliant on private development for the jobs and local tax-base they provide. This provides developers with significant leverage to skew local plans in their interests and, as our research found, produce places that are not as well designed as those in higher value areas (p.66 & p.82).
 - Third, it is difficult to see how local authorities can boost democratic engagement in developing local plans when the most political aspects of these local plans, the housebuilding targets, have already been set in advance by a central government algorithm (see Q4).
- As well as properly resourcing local authorities, to address the democratic deficit likely to result from the factors above we would encourage the Committee to consider other more deliberative forms of democratic innovation¹⁰. The Midlothian Citizens' Panel in Scotland of 1,000 randomly selected local people that was convened to consult on the authority's Community Planning Partnership stands as a useful case study (p.104).
- We are broadly supportive of the proposals to make the planning system more technologically accessible (p.104). That said, the evidence¹¹ suggests that unless there is an explicit focus on representing the demands and needs of those disempowered, these mechanisms will be designed to align with vested interests.

⁹ See Slade, D., Gunn, S. and Schoneboom, A. (2019). *Serving the public interest? The reorganisation of UK planning services in an era of reluctant outsourcing*. Royal Town Planning Institute, available online: <https://www.rtpi.org.uk/media/2005/servingthepublicinterest2019.pdf>

¹⁰ Fung, A. (2006). Varieties of participation in complex governance. *Public administration review*, 66, 66-75.

¹¹ See the work of Desiree Fields e.g. <https://www.publicbooks.org/uploading-housing-inequality-digitizing-housing-justice/>

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