

Written evidence submitted by the Smith Institute [FPS 038]

The Smith Institute is an independent think tank which provides a high-level forum for thought leadership and debate on public policy and politics. The Institute, with funding from the Nationwide Foundation, provides the secretariat to the Affordable Housing Commission and is well respected for its work on housing and placemaking. This submission – also funded by the Nationwide Foundation - is concerned primarily with the housing aspects of the Planning White Paper, especially its relevance to social and affordable housing.

The planning system and housing

Much of the Planning White Paper's aims are laudable.¹ However, the Institute does not agree that the reforms – as presented - will deliver the outcomes predicted. Indeed, there is no firm evidence in the White Paper (WP) to suggest that the shift away from a development management system to a more centralised, zoning system – with binding housing targets set by central government, design codes and a new nationally-based planning gain regime - will lead to improvements in housing delivery or standards.

There is a serious risk of unintended consequences as the system is rolled out nationally, including a fall in the supply of affordable housing and fewer mixed income communities. This would be a major concern at a time of such uncertainty when demand for sub-market housing is increasing. At the very least there should be an impact assessment of the proposals and how they affect different places, different households and different schemes.

Planning alone cannot fix the housing crisis and the government must closely link any reforms to properly resourced flanking policies, not least to address the massive disinvestment in social housing, the short-comings of the housebuilding business model, and land shortages and property speculation. In particular, more must be done to reverse the tenure shift towards the private rented sector (PRS). This shift, as the Affordable Housing Commission's work has shown, is causing widespread housing stress.²

The emphasis in the WP on certainty and speed overshadows concerns over the loss of flexibility and community engagement. The worry is that a new system - which could take three years or more to be established - could end up being much less attuned to local circumstances and housing needs, with local and sub-regional disconnects between housing, infrastructure and regeneration policies and plans.

The WP makes no reference to social rented housing. This is despite recent studies showing close to 4m people need of social housing.³ The WP narrative is predominately about the developer ("user experience") and the push for more market housing, notably in high demand areas. Little regard is given to how the new system will serve the specific needs of low-income households and vulnerable people. Older people's housing is also not mentioned.

¹ The Planning White Paper seeks to "improve the delivery and quality of homes and neighbourhoods....to provide the "affordable housing existing communities require.....in beautiful new places.... with all new homes to be zero carbon ready"

² Making housing affordable again, Affordable Housing Commission, 2020

³ Natfed, People in housing need, 2020 – covers England

The WP highlights delays and deficiencies in the current system. However, little mention is made of the long-standing capacity and capability constraints or funding cuts to Local Planning Authorities (LPAs), the power imbalance between LPAs and developers, and low morale among planning professionals. This must change if any reforms are to make a lasting difference.

Despite these problems the vast majority of planning applications are approved, and the number of consents granted continues to exceed the homes built. According to Savills, there is a sizeable gap (circ.124,000 homes pa) between consents granted and homes delivered.⁴

In place of the WP, the government should focus more on resourcing LPAs properly and granting councils greater planning powers: for example, over land assembly through 'stronger Compulsory Purchase Orders, by changing the Land Compensation Act so land can be bought at closer to existing use value, and regaining control of Permitted Development Rights (PDRs).

Housing supply

As the Select Committee have documented, there are now serious housing shortfalls in many parts of England, often built up over decades. This presents a difficult challenge to councils in areas where land is in short supply – and where there is often strong opposition to new build.

Reforms to the way housing numbers are assessed and targets set are particularly contentious. Indeed, government efforts in the 2000s to impose housing targets through Regional Spatial Strategies and Planning Policy Statements were vigorously opposed. The issue for many councils then – and now - was that nationally determined, binding housing requirements fail to appreciate local circumstances, such as land use constraints, housing needs and the potential for growth.

Improving the way housing requirements are assessed is to be welcomed, but the new standard method is too narrow and risks directing development away from areas of potential growth.⁵

It is misleading to claim that the reforms will automatically create more competition among homebuilders/developers, and that this will increase supply. In the short term at least, a new system – especially if it includes Levy exemptions for SME builders – is likely to lead to a fall in the supply of affordable homes.

Greater diversity is welcome, but it is unclear whether the new entrants will act any differently or be better placed to provide a mix of housing type. Similarly, will support for SME builders deter land banking and speculative land trading?

Building new (higher quality) homes – from start to completion – takes time under any system, and progress is likely to be much slower during a housing downturn. Furthermore, new supply does not quickly translate into lower average house prices and greater affordability. The extent to which planning consents translate into actual building starts is partly determined by the build-out rate.

The Letwin Review (2018) on the very slow rate of development on major sites demonstrated that build-out rates greatly improved if the development includes new affordable homes of different kinds. The planning system should seek to encourage this.

⁴ Planning policy update', 2019

⁵ see the Litchfield study 'How many homes? The new standard method', 2020

Social housing

There is now a large and widening gap between housing need and the supply of sub-market housing. Estimates of housing supply requirements in England by Professor Bramley identify a need for 90,000 new social rented homes a year, alongside 30,000 intermediate Affordable Rent homes and 25,000 shared ownership properties.⁶ Combined these estimates are equivalent to nearly half of the government's 300,000 pa housing target.

Despite the need for much more sub-market housing the thrust of the planning proposals strongly favours those on average and above incomes, especially first-time buyers able to access home ownership. Planning for genuinely affordable homes is very much a second order preference. A recent survey of over 50 social landlords showed that the majority (57%) expected that the reforms would in fact lead to a significant decrease in the supply of social rented homes. Overall, 85% thought the reforms would lead to less social rented homes.⁷

The Institute is particularly concerned that the new planning system may in fact presage a further decline in genuinely affordable housing – albeit in some areas as a trade-off for low cost home ownership products. The WP fails to acknowledge that in many areas there is a pressing need for social housing. Building more market housing at the expense of social housing will merely intensify “affordability pressures” rather than reduce them. A new system must enable communities to plan for a mix of housing types.

A major challenge is the freeing up of more sites. However, it is unclear how the new system will evaluate land availability. For example, will the LPAs continue to use Strategic Housing Land Availability Assessments or will they be considered “unnecessary assessments” – if so, how will land availability be properly assessed and over time?

Housing policies have become more market orientated, with social landlords expected to fund sub-market homes from the profits made from market sales, higher rental income from Affordable Rent and via Section 106 Agreements (S106). This cross-subsidy model – which is intended to reduce the reliance on housing grant – has contributed to the decline in new social rented homes. The new planning system is likely (maybe intended) to exacerbate this trend.

Planning gain

The Infrastructure Levy is effectively a development tax and breaks the connection with a particular development. It rules out any negotiation as to what is viable and necessary and shifts the risk and responsibilities onto the council – which will have to foot the bill for any borrowing against the Levy if developments do not go ahead.

Rather than changing the entire planning gain system and giving ministers control over the scope/rate(s) of a national Levy, the government should do more to encourage councils to be resolute in requiring a level of affordable housing from S106 Agreements. The London Mayor's new S106 guidance – which grants fast track planning if developers deliver 35% affordable housing without grant – is an example of what can be achieved.

An adopted local plan and properly resourced LPAs are critical to making the most of planning gain. It is more likely that land owners would bear costs and deliver additional

⁶ Housing supply requirements across Great Britain: for low-income households and homeless people, Crisis/Natfed, 2018

⁷ Affordable Housing Commission survey of social landlords and attitudes towards the WP – to be published in November 2020

affordable homes if local plans actually specified that new affordable homes must be bought at a price reflecting discounted net rents.

Given the large profits that developers and land owners have made⁸, stronger interventions could be taken to limit 'gaming' the system. Capturing more of the surplus from land value uplift and clamping down on evasion should be a priority for government.

Both S106 and CIL have been essential to delivering affordable homes and providing the enabling infrastructure. Any reduction would be a major concern. Unfortunately, the signs are not encouraging. MHCLG's parallel consultation on 'Changes to the current planning system' states that extending the small sites threshold under S106 to 40/50 homes would reduce new affordable housing generated by the planning system by around 20%. The cut in rural communities could be much larger. The Levy may well include new exemptions on smaller for affordable housing.

There is no evidence to suggest that a 'one size fits all' Levy – with less flexibility - will be an improvement. Without some national pooling the Levy will provide larger sums in high-value areas and much lower amounts in low-value areas. There is a risk that the Levy will also discourage development of more expensive brownfield sites or mixed community schemes.

It is noteworthy that the government's 'CIL team report' (2016) concluded that S106 was "was preferable to a CIL system that lacked the necessary degree of flexibility".

Design and beauty

The WP rightly acknowledges the need to raise design standards and the urgency of making homes zero carbon ready. However, making these objectives a higher priority for councils – through changes to the National Planning Policy Framework and local plan and tightening the statutory requirements – is possible without sweeping reforms. Other improvements, for instance with building controls and energy efficiency ratings, have been made without changing entire regulatory systems.

The emphasis on place-making and 'liveability' issues in the WP is to be welcomed. However, consideration also needs to be given to the mix and suitability of developments, as well as to internal design and specialist housing – especially for the older people.

It is misleading for the WP to suggest that local authorities have disregarded quality and "beauty" issues. In fact, some councils have well respected design review teams/codes and many have complained about the delivery of poor-quality housing via the extension of PDRs and challenged viability assessments that downplay quality standards. Furthermore, many councils are delivering well designed eco-friendly housing – the Norwich council estate, which won the 2019 Sterling Prize, is a case in point.

In a low grant environment, all types of sub-market housing could be marginalised, especially if councils adhere to higher – and more costly – standards. Although there is a case for improving design standards, it should not become a reason to undermine efforts to create mixed income, affordable communities. Quality and affordability must co-exist. On the flip side, it is also important to ensure that standards are upheld – which has not been the experience with the extension of PDRs.⁹ There are also concerns that the recent changes to the Use Classes System may also undermine both housing affordability or quality.

⁸ The top 10 housebuilders paid out over £2.4bn in dividends in 2018 and 2019

⁹ See the UCL study 'Research into the quality standard of homes delivered through change of use permitted development rights', 2020

Community engagement

The WP claims the reforms will increase participation. However, the new system does not necessarily make community engagement more tangible. Removing the right to comment on individual planning applications – which is what mostly engages people – is a step backwards. No evidence is given in the WP to show that residents wish to give up this right in exchange for involvement only with the new local plan and local design codes. A recent survey by Civic Voice (23 October) showed that 86% of their members thought the proposals made the planning system less democratic.

The WP states for large schemes: “the automatic ‘right to be heard’ could be removed so that participants are invited to appear at hearings at the discretion of the inspector” (P.40). The discretion of an inspector is not a right to participate.

As the TCPA notes: “The WP does not provide a single new right for community participation or a single new opportunity for democratic involvement in the plan-making process, but rather reduces both rights and opportunities to participate”.¹⁰

The LGA shares this view, stating that: “any loss of local control over developments would be a concern. It would deprive communities of the ability to define the area they live in and know best and risk giving developers the freedom to ride roughshod over local areas”.¹¹

It is also hard to envisage how a community could be involved (or influence) developments in a plan which is three years ahead in the future, and where viability and circumstances may change. A frontloaded system may in fact further undermine public trust. The WP does not provide evidence to the contrary.

The Institute also has concerns over the role of neighbourhood planning, which appears to have been downgraded.

Local Plan and zoning

The fact that the majority of councils do not have an adopted local plan is clearly a weakness in the current system. However, the absence of an up to date local plan does not mean councils can ignore national planning policies. As the WP suggests, government could make it a “statutory duty for local authorities to adopt a new local plan by a specified date” P.41). Introducing such a strong duty does not require a reworking of the entire planning system.

Zoning systems have their pros and cons and offer a trade-off between certainty and flexibility, but international experience shows they can be just as complex, legalistic and bureaucratic as the existing system. The focus on plan-making rather than development management also requires extensive upfront consultation on zoning requirements. This may not be forthcoming in all areas, leaving local communities distanced from long term local plans. The WP needs to explain how communities will be fully engaged in the plan-making process and what happens during the long transition process?

More information is needed on how local areas will fit into the three zones – ‘growth’, ‘renewal’ and ‘protected’. There is a danger that councils may disagree with the designations or be unable to specify local policies – say for fast track planning for higher quotas of affordable housing in dedicated housing zones. Will councils be able to oppose a designation?

¹⁰ The Planning White Paper – The TCPA’s initial analysis’, September 2020

¹¹ Cllr James Jamieson, Chairman of the LGA, August 2020

Some housing and regeneration schemes cross-over local authority boundaries and require agreements between councils. In this regard it seems unnecessary to remove the existing duty for councils to cooperate at the strategic level. As the RTPPI notes: “Without a strategic framework it is difficult to envisage how sustainable patterns of development will be arrived at, and how local areas will be expected to align Infrastructure Funding Statements and Infrastructure Levy contributions with strategic infrastructure investment”.¹²

Conclusion

A persistent weakness with the WP is the lack of evidence to back up the various claims and assertions offered. There is far too much stress on improving the speed and efficiency of the system for developers, and too little focus on achieving the best outcomes for all household types in a community.

A thorough evaluation is required, not least of how proposals, like the Levy and reformed plan-making process, will impact on different housing markets (and on different housing tenures and types), and how they relate to other policies concerning jobs and growth. Without the evidence and fuller analysis the WP appears more like a Green Paper for initial consultation, rather than a document prepared for legislation.

There is a case for continual improvement of the planning system – it is designed to evolve and has been doing so for over 80 years. Government must be confident that any major reforms are in the best interests of the nation and local communities. The danger is that a new system (which will still allow for developers to submit applications contrary to local plans and codes as well as appeal against refusal decisions) could quickly become complicated, inflexible and ultimately moulded by legal challenges. Such an outcome would be a major disaster – especially at this very difficult time.

Whilst there are aspects of the WP which could improve the system – such as improved digitalisation, a stronger duty to plan, national/local design codes – there is no reason why these aspects cannot be carried forward without reforming the entire system. Some of the proposals could also be piloted and tested before general implementation.

Besides the uncertainty of what a new system may bring, managing the transition will be protracted and possibly chaotic. A more modest package of targeted planning reforms - connected to actions to support genuinely affordable housing - would make more sense, and arguably garner wider professional and public support.

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¹² Proposals for planning reform – RTPPI Briefing’, August 2020