

## Written evidence submitted by the National Housing Federation [FPS 158]

### Introduction

The National Housing Federation (NHF) welcomes the opportunity to respond to the Housing, Communities and Local Government Select Committee's inquiry on the future of the planning system in England.

The NHF is the voice of almost 800 housing associations in England, providing more than two and a half million homes for around six million people. Our vision is for a country where everyone can live in a good quality home they can afford.

Our members were responsible for building around 40,000 new affordable homes last year and are ambitious to deliver more, both through their own development and via developer contributions.

#### **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?**

While the picture is very varied across the country, our members report that the system is too often slow, adversarial and that decisions and timescales are too uncertain.

There can be shortcomings both in forward planning and in development management. For example, fewer than half of local authorities have an up-to-date local plan. And our members often find that the supply of land, particularly in areas of high housing need, is one of the biggest barriers to their development ambitions. Available, suitably-sized sites at prices which make a high share of affordable tenures viable are often in short supply.

The length of time taken to achieve implementable planning permissions is too great in many cases. Many applications take much longer than the statutory timescales (although ways are usually found not to breach these) and post-decision negotiations over Section 106 agreements are a regular source of frustration. Input from other organisations – such as utilities – can also be slow and uncertain.

Local politics and opposition to development are also a significant challenge in many places, especially for greenfield development.

Our perception, shared by private sector counterparts, is that the system is often harder for smaller developers to navigate successfully. They are less likely to have a portfolio of sites available and may be less well-equipped to compete in the land market where land promoters and larger developers tend to dominate. Smaller developers are less able to employ specialist planning teams to guide them through the process, or to contribute so substantially to local infrastructure and other demands.

Housing associations find it hard to match the prices paid for good land where there are not robust affordable housing policies in place to temper landowners' expectations. This problem will be exacerbated if the current proposal to raise the threshold for affordable

housing via Section 106 agreements is introduced, lifting the threshold from the current 10 to either 40 or 50 homes.

Finally, the transfer of homes secured via Section 106 agreements with private developers is also very variable. In some cases, housing associations are involved early in the planning process and able to exert influence on the affordable housing element of a scheme (e.g. types, specifications). In others, housing associations only hear about opportunities to acquire at a much later stage, and can end up in an auction situation with limited information on which to base a decision.

We reiterate that these problems are not consistent across the country: there are places where the system works well – just too few of them.

### **What changes might need to be made?**

The NHF thinks the most important change would be better resourcing of local planning authorities. Our members, while sometimes frustrated by the system, generally understand that much of this is down to lack of resources. Importantly, this is not just in planning departments but also in the related functions required to operate the system, including highways and legal departments.

Nevertheless, there are specific weaknesses in the system which need to be resolved. The current process for putting local plans in place is too onerous, and the lack of effective cross-boundary planning in many areas means that development land constraints on one area are not often compensated for in another. Clearer and more robust affordable housing policies would make it easier for housing associations to compete for land.

## **Are the Government's proposals the right approach?**

We support many of the ambitions behind the Government's proposals for improving the plan-and-decision-making systems, but we need to know more of the detail to understand whether the proposals can work in practice.

The NHF is pleased to see recognition of the pressures facing local authorities. We believe they will need much more resource if they are to implement the new system effectively. While welcoming government's commitment to a resources and skills strategy, we are less certain that this will deliver the necessary investment in time to successfully implement changes on the scale envisaged.

On the specifics of the 'Planning for the future' white paper:

- **Pillar One – Planning for development**

We agree with the idea of streamlined local plans, but are concerned that the timescale for delivery is over-ambitious. Similarly, we welcome clearer zoning, but feel the limited number of three proposed could be challenging – especially the very broad 'renewal' zone. We think there could be a considerable amount of work likely to be required in delivering these ambitions to a level where they realise the benefits outlined in the white paper.

We think the aim behind setting a local housing requirement figure is good in theory – but will be difficult to achieve satisfactorily through a national formula. The current and proposed 'standard method' for assessing housing need is already flawed – it is hard to understand how some local constraints (such as flood risk areas) could be added in a workable way through a further national level of prescription.

The white paper's lack of direction on any form of 'larger than local' cross-boundary planning is disappointing. Strategic planning requires a tier above district and borough level.

- **Pillar Two – Planning for beautiful and sustainable places**

The NHF is supportive of the government's ambition to improve the standard of design.

However, we think the white paper is focused too strongly on aesthetics and would therefore welcome broader use of design guidance and codes. We would like to see the focus extended to mandating good standards of internal design, including space and accessibility standards.

The white paper's lack of clarity and emphasis on specific measures to enhance the planning system's contribution to environmental sustainability and climate change is a cause for concern.

- **Pillar Three – Planning for infrastructure and connected places**

This section of the white paper gives the housing association sector greatest cause for concern.

We appreciate the government's intention is to secure as much, or more, affordable housing in a revised planning system. However, described in the white paper, it is not clear that the proposed solution would enable this. The NHF therefore does not support the replacement of Section 106 with the proposed infrastructure levy at this time. We have specific concerns about:

- The proposal to calculate levy rates based on Gross Development Value, which does not seem to account for the widely varying viability and profitability of different areas, sites and schemes – and risks promoting the most profitable schemes over the best developments in planning terms, particularly in areas of marginal viability.
- The loss of a link between contributing developments and the uses to which the levy is put. Section 106 agreements provide legal certainty about the provision of necessary site-specific infrastructure, affordable housing and other measures – the suggested borrowing by local authorities to provide infrastructure does not seem an adequate alternative.

Our concerns are supported by our members' experiences of previous development levies – including the current Community Infrastructure Levy (CIL) – which have not been notably successful and have proven less effective and durable than Section 106. We would like the government to look again at the 2016/17 [CIL review](#), which had useful ideas on improving developer contribution systems.

In contrast to CIL and previous levies – and as the committee has recognised – Section 106 has been relatively successful and has scope to be improved. We recognise that it can be a bureaucratic burden – particularly for smaller developers – and is sometimes too flexible, but it does have a number of important strengths:

- It can, and should, be sensitive to local circumstances and not undermine viability.
- It ensures that necessary site-specific mitigations are delivered, allowing development to proceed.
- It is ring-fenced for use on the purposes for which it was raised (e.g. affordable housing, infrastructure), improving certainty, transparency and trust.
- It enables efficient on-site provision of affordable homes, creating mixed communities.

We are also unclear on what the promised “as much, or more” affordable housing under the new system refers to. Is it the equivalent to the current system, which delivered 28,000 affordable homes through Section 106 in 2018/19 – or the number in existing affordable tenures anticipated after proposed changes to introduce First Homes and raising the Section 106 threshold? The latter would mean a major reduction in the supply of current affordable tenures.

We note that the government has published several planning reform consultations in recent months - all are important to achieving a more effective system. We responded to the recently closed consultation on changes to the current planning system. In our submission (1) we argued:

- Increasing the threshold above which affordable housing contributions may be sought via Section 106 would lead to an unacceptable loss of affordable homes. This is particularly the case for the many areas which rely heavily on developments of 50 or fewer homes for much or all of their new affordable housing supply.
- The proposed change to the Section 106 threshold would not help SME builders as much as anticipated. They would be exposed to higher land prices and reliance on a single tenure in a market downturn, without the opportunity of a guaranteed early sale of affordable homes to a housing association.
- The mandatory requirement for First Homes through developer contributions risks a negative impact on affordable housing delivery. This is especially true for the First Homes Exception Site proposal – we suggested a much wider rural exemption should be applied.
- That both the current and proposed ‘standard method’ for assessing local housing need were flawed, and that a new approach was required.

We will respond positively to the consultations on land control and transparency, and on accessibility standards in new housing.

(1) <https://www.housing.org.uk/resources/proposed-changes-planning-system-consultation-response>

## **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?**

The NHF believes both are relevant. Many commentators have noted that the number of existing planning permissions significantly exceeds the number of homes built. This is true but may overlook broader issues in the land market.

The government’s 2018 independent review of buildout rates noted that developers seek to build at a rate which will not cause prices to fall – the absorption rate. As the majority of development is for open market sale, this single market segment encourages modest buildout rates. The review suggested that breaking large mono-tenure sites into smaller parcels for a wider range of developers and tenures could accelerate development.

In a truly competitive market, slow supply by one or a few firms might encourage competitors to enter the market and seek to take market share by building faster or at lower prices. In many areas, however, confidential options and rights to purchase held between small numbers of landowners, promoters or developers mean that it is difficult for new market entrants to secure sites.

It would be useful to know more about who controls land, and we welcome the government’s current consultation on this.

In some areas, there are also significant policy constraints. These are most obvious around major urban areas, where large areas of green belt are effectively off limits for major development. This is particularly apparent around London where development has often 'spilled over' into locations beyond the belt.

There seems to be an assumption in the government's white paper that granting more planning permissions will lead to additional building. This might be true in a properly competitive market – perhaps more akin to the inter-war period when very high levels of private building were achieved on cheap agricultural land. But the resulting sprawl (London's land area doubled in 20 years, while its population rose by only one-sixth (1)) was a major factor in establishing the planning system and green belts we recognise today.

It may not be always be possible to release enough extra land in such a way as to compel faster building and lower prices. Other approaches – such as requiring greater diversity of sites and tenures – may be required.

(1) <https://www.tandfonline.com/doi/abs/10.1080/20507828.2017.1399760>

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

We support efforts to promote the status of good design through the planning system and were regular contributors to the work of the Building Better, Building Beautiful Commission. We also support the work undertaken by the Place Alliance through their Housing Design Audit (1).

Well-designed buildings and places are too often the exception. We think there are two broad ways to improve the current situation:

- Clearer, more comprehensive and stronger design standards, which carry more weight in planning processes.
- More design skills and resources for local planning authorities to establish and uphold those standards.

As with many aspects of planning, there is a widely varied picture across the country. There does seem to be, however, correlation between the application of effective design codes and processes and what are considered good design outcomes.

The most effective codes appear to be site-specific. The Place Alliance's recent Audit found site-specific codes were five times more likely to lead to good or very good design outcomes than poor or very poor outcomes.

Site-specific codes can benefit from a framework of national or local guidance – but successful application at the level of development schemes appears key.

Given the importance of site-specific coding, local authorities and their staff need to have the resources to oversee development and implementation of these codes appropriately. Yet we know that design skills are one of the areas that have been most affected by recent local government cuts.

We have used the phrase “good design”, rather than “beauty” / “beautiful”. The former is broader and more easily defined than the latter. Beauty is certainly an aspect of good design we are keen to see more of – but good design is about much more, including the interiors of homes.

We would like to see better space and accessibility standards considered alongside other design criteria, including environmental performance of buildings and places. We called for greater ambition on energy efficiency (2) than was proposed in the Future Homes Standard consultation and would also like to see a reformed planning system that embraces sustainable place-making more effectively. This would include a broader emphasis on locations and connections, including focusing on densification and encouragement of active travel. Recognising that the vast majority of the 2050’s housing stock is already built, we are also keen to see emphasis on retrofitting existing homes, including through bringing forward the Social Housing Decarbonisation Fund.

We support the TCPA’s Healthy Homes Act campaign and recommend the committee considers this.

(1) <http://placealliance.org.uk/research/national-housing-audit>

(2) <https://www.housing.org.uk/resources/the-future-homes-standard--our-consultation-response>

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

We appreciate the government’s ambition to set housing numbers in advance of local plan development. The practical difficulty is that there is no simple solution or formula for calculating the most appropriate numbers in every area.

We also recognise that inconsistent approaches across different areas may divert attention away from the important process of planning where development should go, and into heated debates about how much development should be planned for. This was the case prior to the standard method.

Unfortunately, the standard method, and particularly recent proposals to revise it, seem to have moved the heated disputes from local to national level. This was also the effect of the previous regional strategies.

The white paper proposes to augment ‘need’ figures with a mechanism to account for local constraints, and thus producing a definitive, non-negotiable figure. We have yet to see the detail of this – but are unclear how it could form the basis of an intelligent, sustainable system.

The challenge of calculating the right numbers in the right places is compounded by the white paper's lack of proposals on 'larger than local' planning. Many local authority geographies bear little resemblance to functional housing market or economic areas, but broader perspective does need to be an integral part of how we plan housing and infrastructure.

A more successful approach might combine national methodological guidance on criteria to be used (and weights to be applied to those) with local and sub-regional input. The approach should include reference not only to total homes but also to tenures and types. The Homes for the North group of housing associations has been investigating how this might be done – we have encouraged the government to engage with them.

There may be an enhanced role for combined authorities and an opportunity to deliver change through the devolution white paper. Places could be allowed a fixed period in which to develop suitable allocations, which could be subject to a light-touch external approval process. If an area is unable to secure approval within a prescribed timescale, then an external solution may need to be imposed.

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

No comment.

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

No comment.



## **7. What changes, if any, are needed to the green belt?**

We support green belt principles – belts are a powerful tool to restrict sprawl and encourage urban redevelopment. We also support the current national policy position that there are limited circumstances where changes are justified in its extent, particularly in respect of affordable housing.

We think the government could be clearer on what is meant by the “exceptional circumstances” that justify release of green belt land through local plans, particularly in relation to an inability to meet local housing need (1).

It may be that “exceptional” has become an unhelpful term. In some places, what might once have been considered “exceptional circumstances” have become normalised. In 2019, 80 local authority areas had median house prices above ten times median incomes (2). Most of these are areas including or adjoining large areas of green belt. This is around five times the level of 2007. This seems very unsatisfactory – but unfortunately no longer exceptional.

The government could also be clearer that local plans should be specific about which permissible green belt developments (NPPF paras 145-146) may be permitted, where, and under what local circumstances. In particular, there could be a stronger role for affordable housing - releasing green belt land for upmarket private sale homes seems unlikely to improve affordability in a meaningful way or timescale.

(1) <https://www.bidwells.co.uk/assets/Planning/Housing-Delivery-Test-2020-Projections.pdf> (around 55 local authorities are projected to fail the latest Housing Delivery Test by a sufficient margin that the most serious sanction (“the presumption in favour of sustainable development”) will be applied)

(2)

<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhouseprice-to-residence-based-earnings-lower-quartile-and-median>

## **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?**

We supported the Committee’s recommendations in respect of Section 106 and the CIL, noting the then Minister of State’s view that the government preferred more “incremental change” than was recommended by the CIL review.

The planning white paper goes much further than either the Committee’s or the CIL review group’s recommendations in seeking to abolish both Section 106 and CIL. We currently retain a preference for the Committee’s position that Section 106 is a relatively effective mechanism, which can be made to work better, especially for smaller developments. Our view of CIL is less favourable, and we think it should be reformed.

We support the government's ambition to have more and better local plans in place more quickly. This is also a recommendation of the Committee's report. We would like to see the proposed reforms introduced in such a way that infrastructure and affordable housing requirements are clearly and effectively embedded in such plans, so as to moderate land price expectations and ensure the most value is captured for successful place-making through appropriate infrastructure, affordable housing, etc.

These changes would require better resourcing of local authorities in many places.

We also think the government could give stronger guidance on how 'best value' in the disposal of public land should include a greater emphasis on securing affordable housing and other community benefits beyond simply the highest sale price.

Also relevant to the committee's report, the government consulted on reforming the development corporation model in 2019. They have not yet responded to feedback on this consultation, however, and corporations barely feature in the planning white paper. A corporation is under development in the East Midlands but we feel that the model could be more widely applied (1), particularly where major new settlements are an appropriate solution. Development corporations have proven effective at land value capture in the past. However, the lack of 'larger than local' thinking in the white paper makes it difficult to see how such locations for major development via such corporations would be identified.

(1) <https://www.housing.org.uk/resources/development-corporation-reform>

*November 2020*