

White Paper - Planning for the Future

Response of David Lock Associates

October 2020

As one of the largest independent town planning and urban design consultancy practices in the UK, DLA welcomes the opportunity to respond to the ideas and thinking set out in the White Paper.

The planning reforms proposed are wide ranging, and deal with matters which in truth may only be able to be effectively resolved through a consideration of planning in parallel other strands of policy reform currently programmed – most notably local democracy, environment and transport, and climate change.

There will be others better placed to respond to the White Paper on matters of engagement, trust, and democracy. As practitioners with a particular emphasis on strategic scale planning, design and placemaking, and delivery thereof, our response focuses on the practicalities of the plan-making, consenting and implementation regimes.

Below is our overarching commentary on the White Paper proposals: detailed responses to each of the specific questions posed in the White Paper have been separately submitted.

Overview

Planning is about balancing interests. It is first and foremost about **places and people**. Its primary purpose is to secure good outcomes for those people and places – economically, socially and environmentally.

It has to balance opposing views. Those who seek change and those who don't. Those who embrace growth and those who fear it. Those who have a voice and are not afraid to use it; and those who cannot get their voice heard.

Planning is the place where different priorities come together – sometimes harmoniously, sometimes in discord – and is the vehicle by which different objectives can be aligned and made to work together to deliver a better end result.

However, currently the best outcomes for people and places are often made despite the planning system, not because of it.

At DLA, we are committed advocates of planning, design and placemaking as a positive and inclusive activity. Whilst we are not convinced that it is right to completely dismantle the system – or that now is the right time to do so – at a strategic level the planning system is very evidently unfit for purpose. As such, we welcome the White Paper as an opportunity to 'rebalance' priorities and put planning back in a positive light. We want planning, urban design and infrastructure delivery to be seen as well understood, welcomed and respected professions and activities that imagine, bring together and build sustainable places.

To that end, we would like to see reform which delivers the following:

- **Effective and meaningful national policy** – including National Policy Statements articulated through a national Spatial Plan or **series of Spatial Frameworks** – based on drawing together recognised national data with stated infrastructure and economic priorities to set priorities over the long term.
- **An unequivocal set of building, design and environmental standards fixed at a national level and to a minimum standard - to ensure a level playing field.**

- A **clear, central and enabled role for – and responsibility taken by – the public sector** in creating positive conditions and frameworks for growth through the co-ordination of policies and placemaking factors in a local plan, shaped **by a strategic spatial vision or framework** prepared by combined **authorities or properly constituted and demographically-representative sub-regional bodies**.
- **Local plans which translate these strategic spatial visions or frameworks into meaningful growth proposals**, making it clear how strategic and local priorities can be evaluated and combined to meet the needs of the whole community, not just those who shout loudest.
- More **place-specific and binding local plan policy** – embedding outline master plans and design requirements for sites within local plan policy –worked up in partnership with those responsible for delivery and upheld consistently by independent Inspectors through Examination and appeal decisions.
- **Clarity for the development industry over what they are expected to bring forward - and for the local community about what they expect to see** – in detailed development proposals brought forward in line with policy.
- Within this context, we want **local communities to be helped to engage effectively and proportionately with the plan-making system**; helped to prepare neighbourhood or community plans to shape local plan growth within their community; and for these plans from the outset to have input from, and represent the desires of, all groups and interests within a local area.

And we want to cultivate **trust within the planning system at all levels**.

The Context for Planning Reform

Planning reform can deliver some of the changes we seek. But it cannot be done in isolation. In order to secure effective change, it is our view that the White Paper proposals cannot hope to succeed in delivering a better planning system unless they are closely aligned and developed in parallel and in conjunction with policy objectives already – or to be - set out in the following:

- Devolution and Recovery Bill: *(due in the next few months); where the democratic context for forward planning, engagement and accountability, infrastructure spending and decision making will be set out;*
- The Climate Change Act: *setting national policy on zero carbon development, minimum space standards and enabling a new definition of sustainable development to be set to 2050+*
- The Transport Decarbonisation Plan: *(due by the end of 2020); setting UK wide policy to achieve net zero emissions in transport by 2050.*
- The Environment Bill: *(no firm date but expected this year)*
- Building Better Building Beautiful Commission: *(Terms of Reference due imminently)*
- Waste Management Plan for England: *(as consulted upon in August 2020)*
- National Policy Statements *(and NPS reviews as deemed necessary by SoS)*

Without real, sustained and meaningful cross sector engagement in policy making on the above issues at a national level, planning will continue to struggle to navigate an effective path towards better outcomes for people, or to drive forward the delivery of growth and new homes that the government is so keen to see happen.

The Practicalities of Planning Reform

We welcome the government's commitment to take up the reform challenge, but caution against attacking the beleaguered watchguard in planning departments or shredding the current system and starting again; it will be a decade or more in the remaking. The system may be creaking, but it is still working to support continued investment in the development sector, which is vital now as the economy falters.

Remove the framework, and some players will expertly exploit the gaps that open up, but those that work through the system to deliver comprehensive, high quality, large scale development and urban renewal and beneficial but essential/marginal land uses, will retreat.

Transition needs to be as seamless as we can make it - working to maintain and adapt what we have and using secondary legislation wherever possible pending more fundamental change. This need not diminish ambition for a much-improved system in time.

And reform must not be an excuse for a slow-down of planning activity in plan making and decision taking in the short and medium term. We must avoid counter-productive outcomes in the short and medium term if we are to deliver the necessary homes and positive post-COVID economic response.

In moving from ambition to law and policy, we urge government to:

1. Understand the breadth of the system and the extent to which the strands are woven together: it needs to work end to end, north to south, high value to low value, large and small. There is also enormous potential for the system to help tackle big strategic issues – climate adaptation, habitat creation, food production, water management, economic disparity. Planners want to embark on this agenda.
2. Address the purpose and operation of the English system in respect of land use across urban and rural areas. It is misguided to further reinforce tension between 'growth' and 'protection' – the reality is much more nuanced (which will mean more refined grades or endless exceptions within any 'zoned' approach).
3. Understand the problem from the point of view of the users, beneficiaries, practitioners, and impacted communities, *not* academic observers or occasional/partial gameplayers. By necessity, by design, and following endless tinkering, the system is now complex, confusing and impenetrable– that is a major failing, but there is immense risk in taking a partial view or cherry picking. **The system can and often does work for the good – find those examples; therein lies the way forward.**

The Problems with the White Paper

From the very first line, the White Paper, is concerned pretty much only with **housebuilding** and the **aesthetic qualities** of new development. It is no coincidence that these are two of the main political drivers cited when resisting growth and change under the banner of 'planning issues' vocalised by communities in the more affluent Shires.

There is no doubt that the construction of new homes - and what they look like - is a critical outcome of planning and increasingly the national framework, and therefore the system of forward planning has been steered and confined to trying to find enough space for homes, predominantly in the South East of England. Regrettably, this has meant major concerns which would benefit from considered reform, such as strategic and economic planning in the north, in rural areas and across other agendas (for example digital transformation or logistics), are at best marginally considered in the White Paper.

There is no question of the need and opportunity for the planning system to be reformed to assist in addressing the housing crisis. But there are immense risks and missed opportunities in seeing the planning system focused upon this purpose or worse, creating a new planning system with this as its only objective.

Our contributions to the White Paper do not respond simply to its housing delivery focus; rather, we offer commentary and suggest potential solutions which are equally applicable to the planning, design and delivery of all types of new growth, including infrastructure.

Considerations and a recognition of how **scale** affects planning policy are also largely absent from the White Paper. In this respect, we urge Government to pursue two distinct lines of inquiry and to take forward two distinct programmes for planning reform, based on:

- Strand 1: Examine the effectiveness of the system to address small scale and gradual adaption, renewal and local intervention (land use management including change of use, small scale development, historic buildings and conservation, public realm improvements, community needs, health and well-being); and
- Strand 2: Examine those aspects of the system which are focused upon major change and investment, including large scale new development, comprehensive regeneration, strategic habitat creation, water management, regional development, and strategic infrastructure.

The challenges for both aspects are very different. In the case of the first, there is immense opportunity and appetite for more speed, consistency and efficiency supported by national policy/standards, local guidance, better enforcement, digitisation and neighbourhood planning, as mooted by the White Paper.

In the case of the second thread, there are fundamental strains and growing challenges in the system which already frustrate investment and timely delivery, and which if unaddressed, will be exacerbated further by uncertainty and distrust of the system.

Given our experience and knowledge, it is in relation to the second thread – planning and delivery of major development, regeneration and change - that DLA are particularly well-placed to contribute and offer possible solutions. The overarching commentary below and our responses to individual consultation questions reflect this context.

Commentary on Key Issues Raised in the White Paper

Issue 1: Scale

Planning for large scale change requires an approach fit for specific purpose. In this arena, the planner is working in the system as a 'jack of all trades', as ring master and arbitrator, assembling and balancing a multitude of competing considerations and interests. These place a call upon scarce land, scarce resources and result in multiple, direct impacts upon communities and the environment. The justification for control over land use, in the public interest, arises out of this tension. The planning system can be regarded as unnecessary state control but, on the ground, the private sector benefits immensely from the protection the system affords their investments.

The process of planning at scale depends upon the inputs of a vast array of stakeholders – many of whom are required to undertake their own forward planning outside the recognised planning process and within different geographical and temporal contexts (health authorities, transport providers, education bodies, water/power companies). **This is perhaps the most significant factor delaying effective planning for large scale development of new employment or**

housing. Major development is constraint and opportunity led, which means it invariably relies upon or responds to the framework of infrastructure provision and anticipated need.

For large scale development the framework is required to be strategic – it will relate to national and sub-national priorities/opportunities. The relevant functional geography may be different depending on the relevant issue. There have been important moves towards this wider view (consider the different areas associated with housing market areas or the remit of Local Economic Partnerships). GIS based data and analysis is revolutionising the approach to understanding functional geography, easily and quickly. The planning system now needs to adapt to how modern society and complex ecosystems function and fix plans at the relevant scales quickly, and efficiently.

Planning for large scale development requires a national, regional, sub-regional spatial dimension, as context. Fixing housing requirements is a good start, but will only be settled by considering constraints and capacity across housing market areas or wider geography (where strategic priorities dictate, such as where there is need to shift growth within an economic zone or north to south). **There is an absolute need for firm, spatial policy at a larger than local scale.**



Government has clear national priorities and infrastructure commitments and recognises how they influence the growth and development of land (cf. the National Infrastructure Commission, for one). These should be given a spatial dimension and injected into the planning system as a national policy framework, to steer growth and investment within a clear and commonly-shared framework for decision making.

At the next level down, regional/sub-regional infrastructure providers need to be obligated to forward plan to facilitate economic and housing investment, not just follow it or cut across it. At present the lack of clarity and commitment from infrastructure providers, alongside the extraction of value, through ransom, by public bodies with infrastructure responsibility, is probably the most significant constraint on bringing forward large scale development more quickly and which harnesses wider benefit.

Identifying the right, general locations for growth should be high level, based upon capacity/opportunity identified through analysis of constraints, priorities, and firm infrastructure and economic plans. Overhauling the Sustainability Appraisal process to meaningfully balance economic and social priorities with site-based environmental considerations - and relying on well informed judgment based upon definitive spatial mapping - is a welcome prospect.

There are a range of options for determining the right scale for 'larger than local' spatial strategies. To be brought forward quickly they need to be concise and focused, based upon the relevant functional geographies, overlaid. They must be underpinned by a clear spatial rationale, an appropriate level of stakeholder engagement and a transparent decision-making process, including an efficient public examination. Evidence must be proportionate to the purpose, which would be to identify locations for significant growth and infrastructure that are capable of being delivered, as well as identifying locations where investment and environmental protection is to be prioritised.

Broad capacity assumptions will suffice. Neither landowners, promoters nor local planning authorities can be expected to do the technical work necessary to underpin 'a consent' at this stage, even in principle. There could be many prospective competing locations for growth; it is simply not feasible, efficient, or affordable within a reasonable timeframe.

These strategic plans must be binding upon any subsequent consent regime for large scale development and have a longevity sufficient to provide certainty around infrastructure investment projects which underpin growth decisions.

Issue 2: Complexity

Beyond spatial strategies, 'consent' for large scale development might follow through one or more approval regimes, most likely approval of a development plan, some sort of delivery plan/SPD and an outline consent.

DCOs may have their place for some developments/infrastructure, but do not readily support building a large new community or managing complex urban regeneration projects: the DCO regime essentially precludes on-going, collaborative partnership working and involved community participation (as opposed to just consultation). This presents a major challenge to integrating new development and cultivating more positive attitudes towards new development. Developing new communities or delivering major urban change is a long and involved exercise and planning should be wound into that process, as a flexible and adaptable control/delivery mechanism.

There is no avoiding the complexity of translating a confirmed location for growth into a deliverable scheme, especially if it is to embody best practice and design quality, secure sustainable development and advance tentative forays into 'net gains'. Attaching a 'consent' to land (whatever the regime) must rest upon a huge raft of technical work, different in every case, across a multitude of specialisms.

At some point in the process considerable time and considerable resource must be invested in this technical work, to support a consent and inform the commercial process/delivery. Done properly and efficiently and at the right time, this effort is not a regulatory/process driven 'burden' but is the foundation of a deliverable master plan or development framework, capable of being progressed, at pace. No responsible developer, promoter or investor will shy away from this commitment; indeed, they rely upon it. The timeframe is necessary and unavoidable for large schemes (3 years 'in planning, consultation and enabling' is typical and essential for high quality outcomes). There are certainly ways to improve presentation; take a more reasonable and proportionate approach on some issues; limit or arbitrate away unreasonable demands; and improve access to and wider understanding of technical studies. **But there is no way to avoid doing them.**

LPA's can rarely afford/justify having a development team with the skills/knowledge/experience to cover the ground in terms of technical inputs when large schemes come forward. Therefore, it is essential to identify growth locations at a strategic level – with all the multi-agency inputs which can be drawn upon at this stage - and then work up proposals with the LPA in sufficient detail for an outline consent (or equivalent) when the commitment to that location is firm.



Parachuting in/seconding specialists from a centralised pool could offer a solution to a shortfall in technical capabilities, but large projects need dedicated teams over a considerable period, familiar with the detail.

Large scale development proposals must progress to delivery through a collaborative approach – the best outcomes arise where local authorities/promoters and stakeholders work in partnership and with an existing, and then emerging, community. To embed trust and certainty in the

process, delivery models/capabilities need to feature large in decisions about the approach to be followed and the planning tools to be deployed (policy, guidance, codes, legal obligations).

Where large scale development is to feature, local authorities must develop their role and capabilities as partners in, or facilitators of, delivery. Dedicated project officers are required and should be seen as a legitimate and non-negotiable development cost. Development management officers have too often ended up trying to fulfil this role. This is hopelessly inadequate.

With the battle lines for the debate over the location and principle of development dealt with strategically, local authorities can reshape their forward planning function to one that is far more focused on positive 'planning' for delivery. Project teams should form around each major allocation/outline consent to manage the design/delivery process. Planners, as currently trained/deployed, have some relevant skills but not all that are necessary.

Scope for different partnership constructs between the public/private sector and/or special delivery bodies (including Development Corporations, most critically where scale dictates, land is to be assembled, strategic infrastructure funded or cross-boundary development is to occur) will be important. This is also an important facet of transition. Planning departments and planning professionals can be adapted and repurposed over time; in the interim it will be necessary to rely on skills where they can be found and by disseminating best practice/experience.

Issue 3: Capacity

We have a capacity issue in the South of England.

However unpalatable, planning for major change must begin with an apolitical assessment of capacity/opportunity for growth based upon mapping functional geography and 'absolute' constraints and then applying policy scenarios to arrive at solutions to accommodate needs and protect/put other land to useful purpose.

At present the NPPF and development plans provide a general presumption in favour of development. In practice, this only applies 'freely' in urban areas where capacity is increasingly squeezed or viability limits potential. At the same time in many parts of the country we have an almost absolute presumption *against* development, other than in urban areas (or where limited, specific allocations have been released from constraint). Failure to plan proactively and properly has led to constant attrition around piecemeal development – won on 'presumption' grounds, secured on appeal. It yields homes but does little for positive planning or wider community benefit, erodes trust in the planmaking system and does nothing to change negative perceptions and vocal opposition to new development.

Where the function and rationale for a protected area is clear (eg National Parks, AONBs and protected habitats through environmental designation) there is little tension in this binary position. But where constraint is applied through a 'blanket restriction' policy choice - such as Green Belt and policies to prevent development of 'open land/countryside' - there is significant tension where housing need cannot then be met. Through such 'chosen' policy-imposed constraint a significant proportion of the south east of England cannot accommodate indigenous growth and can offer no reasonable redress.

It is disappointing that the White Paper takes as read that policy choices such as Green Belt will remain going forward, and its propositions do not explicitly open up opportunities or support local authorities in taking a different approach. But it gives no answers to where the resulting unmet need is to be pushed.

Green Belt policy is no longer applied with any strategic perspective with regard to purpose, and its boundaries are adjusted only through narrow, local review. It must be time to look afresh and more strategically at settlement patterns and the relationship with their hinterland, particularly with the move to a Zero Carbon future that planning is expected to deliver. There is opportunity

to adopt a much more positive approach to rural land use, applied with intent rather than simply as defence. We have different priorities and calls upon the countryside now – as a setting for defined settlements; as a resource for urban populations; for flood and water resource management; for carbon management/offset; for energy generation; for rewilding and habitat creation; for conservation; for sport, recreation and well-being; for mineral extraction; for productive forests and for changing food production. Planned development could facilitate a deliberate and positive reinvention of the Green Belt helping to reduce the tension between the urban and rural environments.

Issue 4 -Quality and Functionality

There is no excuse for some of the very poor quality development which has been, and continues to be, delivered in the UK, but the White Paper is steering towards a narrow take on the issue and the solution, under the false impression that the major issue around quality is one of aesthetics – in architectural form and taste.

There is a strong case for standards –consistently applied, evidenced and costed at a national level - to ensure minimum space, energy/carbon performance and amenity provision, and to embed better sustainability/liveability, health, and well-being ‘performance’. Such national regulatory standards that ‘level the playing the field’ would be welcome (if begrudgingly, in some quarters) thereby removing uncertainty, ensuring a discontinuation of unevidenced locally-applied requirements and removing the need to negotiate from area to area and provider to provider.

These considerations are entirely separate from coding to regulate the character, aesthetics and form of built development.

For so many communities impacted by new development, objections arise from functionality far more than aesthetics. Concerns around impacts upon transport networks, recreational facilities, health services, education etc are the priorities in the early planning process. Those who are most forcefully opposed to the principle of development are unlikely to be genuinely committed to engaging in its detailed design, especially in relation to large scale development which may be delivered over a 20 year horizon. Indeed, broaching matters of detailed design alongside determination on the principle usually elicit cries of a ‘stitch-up’. Those who have a genuine interest in the design of a new place - the prospective community/users - have rarely surfaced at this point.



It is not possible or desirable to code for detailed design with generic codes years ahead of a scheme being commenced and implemented. Further, it is undesirable for that coding to be heavily influenced by an external design ‘elite’ or self-appointed guardians of a particular design/lifestyle choice, both wanting to impose their view of how others ought to live.

Planning can successfully resolve the issues of functionality and it can create a framework for intelligent, engaged responsive urban/architectural design, at the right point in the process, engaging directly with those existing communities and stakeholders but also with emerging communities as they find a voice, to shape their new place.

There are many examples of outstanding coding and design guidance already in the system. Best practice in good urban design is not lacking. What is missing is the commitment of many developers to appoint a professional design team to projects (the wall-papering of standard layouts is now prevalent) and the shortage of senior, experienced practitioners (architects, urban designers, landscape designers) working within Local Government with the capacity and authority to both recognise and reject poor design and enforce against non-compliance (and with the confidence that they will be supported by Members and/or PINS as necessary). When dealing with large scale development this is not a quick task for an officer, passing comment over a draft design code one day and moving onto the next project. Planning Officers and their counterparts in highways/leisure services departments need to be intimately engaged in the design process and delivery and adoption of the specific scheme.

This is resolvable as a resource commitment and a matter for regulation and control through planning consents, all of which can be done within the existing planning system. No attempt to impose 'good taste' from on high will succeed.

Issue 5 -Delivery

As the best examples of the master developer model show, planning consents can themselves become very effective delivery tools overcoming challenges arising from lagging/shortfalls in essential infrastructure, controlling design quality, allowing flexibility to adapt to market/economic change over time and creating direct benefits.

But planning is commonly and increasingly blamed for non-delivery. In the case of the White Paper, Mr Johnson is categorical that it is 'thanks to our planning system' that we do not have 'enough homes in the right places'. He is right, but not in the way he suggests: the fact is the planning system is being used by those with political influence to prevent enough homes being built. That must change.

A move away from a planning system as a 'gateway to delivery' (where 'success' is viewed as an allocation or a consent) would also help: the planning system could go much further, more often. It has ventured in the right direction in the past - with Area Action Plans and delivery SPDs - but in recent years these have ended up under the stewardship of isolated policy officers as issues and policy documents rather than true delivery plans. A planning system such as we



have at present, consumed by endless battles over the principle of large-scale development and the five-year housing land supply position, is not in the best position to really drive and support delivery on the ground. **The good examples referenced above do so despite the system and by bending the rules to achieve that outcome.**

It is essential that in shaping reform the vital importance of Section 106 Agreements is understood; **it is not and has never been a tool simply for land value extraction.**

There is a strong case for a tariff-based system to extract value on a simple, clear and equitable basis from all development, at a reasonable level, to support community needs and infrastructure in the local area and to pay for the planning process itself. However, it should be recognised that, in itself, **any tariff imposed on new development will not pay for anywhere near the amount of infrastructure needed to support the growth plans of most areas.**

In relation to large scale developments in particular, Section 106 is still critical, in addition. Interlinked with good planning conditions, the S106 can provide mechanisms to safeguard delivery by:

- Mitigating the direct and specific impacts of the development itself (which are *not* a shared burden across all development, and the purposes of which are clearly set out in the Planning Act and required by other strands of legislation such as EIA Regulations);
- Committing all parties to the delivery process itself, to ensure co-ordinated development and infrastructure working around shortfalls in public funding and delivery capabilities;
- Addressing possible future hurdles (incorporating measures such as monitoring and management of development and impact, and cross-boundary working arrangements in circumstances where there is more than one landowner or local authority).

The ability for the project team to manage and flex delivery within the parameters of a legal obligation and joint commitment provides the principal delivery control and removes significant risk from the process, as does the ability through the s106 to deliver affordable housing by partnering RPs.

To regard the settlement of these agreements on large complex sites as a 'delay' is to fundamentally misunderstand their purpose and role and the extent to which they overcome barriers to commencing development and maintaining progress. Time invested is more than returned later in the delivery process.

The architects of reform would do well to consider why there is so often a serious hiatus around the negotiation of the Section 106, not because of it. The problem is twofold:

- delays in s106 completions are most often caused by the contractual land arrangements or land ownerships within a site¹, a position on which the planning system is all but powerless to intervene unless CPO powers are to be invoked (which is unlikely to be supported by any but the least risk-averse LPAs);
- many major proposals are brought forward by land interests without the skills, experience, funding or commitment to take the next step (in other words to shape a delivery approach and delivery plan); thus agreements are re-negotiated on transfer of land to those responsible for the actual construction of the consented scheme.

This raises the spectre of delivery credentials being a material factor in selecting sites for major development, or an obligation for those without experience/commitment to be required to work with a delivery partner (which could be a private sector interest, Homes England or the Local Authority) to demonstrate capability and confirm approach before the consent is shaped.

There are a number of ways that the process of agreeing Section 106 Agreements could be improved/speeded up/standardised, but if they are removed from the system altogether then alternative site-specific delivery mechanisms, with legal obligations and redress, and recognisable to a wide audience, must be put in place instead. **It is difficult to imagine an alternative that looks very much different to the best examples of Section 106 Agreements.**

We welcome the opportunity to comment on the White Paper and look forward to engaging further in its evolution over the coming months.

¹ Depending on the outcome of the government's parallel call for evidence *Transparency and Competition: A call for evidence on Data on Land Control (deadline 30 Oct 2020)*, the availability of data affecting land ownership and ability to deliver development may speed up site allocation activity and s106 drafting.