



Planning for the Future White Paper

CIEH response

October 2020

About the Chartered Institute of Environmental Health (CIEH)

CIEH is the professional voice for environmental health representing over 7,000 members working in the public, private and third sectors, in 52 countries around the world. It ensures the highest standards of professional competence in its members, in the belief that through environmental health action people's health can be improved.

Environmental health has an important and unique contribution to make to improving public health and reducing health inequalities. CIEH campaigns to ensure that government policy addresses the needs of communities and business in achieving and maintaining improvements to health and health protection.

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Key points:

Building healthy homes and planning for healthy places for people to live is key to ensuring that housing contributes to health and wellbeing of the nation and helps to reduce costs to the NHS and to society in the long term. This means building a variety of homes in suitable places, including the right proportion of affordable homes and accessible housing for older people.

The consultation lacks the detail needed for us to make a good assessment of the proposals. Without knowing the detailed mechanisms of how certain features of the planning system would be reformed, we are not able to comment definitively.

Permitted development has been found to deliver lower quality housing than the normal planning route.¹ The experience of our members supports the findings of this report. We therefore would like to see the White Paper propose amendments to the permitted development process to ensure that all housing converted from other uses to residential helps to provide good quality homes.

We are concerned by the proposals to simplify and speed up the environmental impact assessment process. Whilst there may be legitimate ways to streamline it, we need assurance that this process is robust enough to capture environmental and environmental health impacts on the occupants of a new development.

Some proposals appear to be contradictory when worked through. For example, whilst the Paper calls for more public involvement in planning, several of the proposals appear to reduce public involvement. Furthermore, it is not clear how fast-tracking beautiful buildings would interact with other requirements such as sustainability and quality of the home.

Whilst delaying payment of the infrastructure levy until occupation is good for developers, it means that local authorities would be taking on more risk and potentially debt that they cannot repay.

We strongly disagree with the proposal to provide financial disincentives, via penalties, to local authorities to ensure speedy decisions are made on planning applications. Furthermore, penalising a local authority when they lose appeals on decisions, is likely to deplete resources further. Resources at local authorities are already stretched and we are concerned that planning departments may not function well if these proposals are taken forward.

Proposal 1 - Simplification of land use plans

The White Paper proposes that Local Plans should no longer comprise lists of policies but instead should set minimum requirements for development. However, apart from allocating land to the three different 'zones' and coming up with local design codes, it is not clear from the consultation what the local plans will actually contain and how much local authorities and local populations will be able to outline in a local plan.

Furthermore, the strict new timeline for the development of local plans could lead to a rushed process, meaning that it may be difficult to create local rules and properly consult on them. Given the length of time that local plans are expected to operate, there needs to be a process to amend the plans if they are found to not work well in practice.

Proposal 2 - Development Management Policies will be established at national scale and an altered role for Local Plans

Local plans are based on detailed local knowledge and engagement. Therefore, making most planning policies national would devalue this local knowledge and insight. We believe that assessments of housing need and viability assessments should still be done locally. If local priorities are overridden, there won't be the flexibility to change policies in response to unforeseen changing demand and changing requirements. For example, the changes brought on by COVID 19 illustrate how people's housing priorities can change over time. Many people in 2020 now prioritise access to a garden and green space, whilst in 2019, many were happy with flats. The level of homeworking requires adequate space to work away from family and children. Therefore, housing which was just about big enough before the pandemic may now have become untenable.

Proposal 3 - Existing tests of soundness would be replaced by a 'sustainable development' test

Whilst there is some scope for simplification of the environmental impact assessment process, it is not clear from the proposals how a simple test of environmental impact would be undertaken and what criteria would be applied. Without a careful assessment of sustainability, there is a danger that development will take place wherever a supply of land is available rather than where need is greatest. The way in which the 'sustainable development' process is designed will determine whether a simplified process is workable in practice and can deliver good outcomes. We would therefore need to have access to more details to be able to support this proposal.

Proposal 4 - A standard method for assessing housing requirement figures

We are concerned that targets set centrally could have little or no consideration as to whether a particular local authority has the demand for extra housing and whether the scale of development is feasible. This assessment would be best conducted by the local authority itself, which has a good knowledge and understanding of their local area. There may be limitations in infrastructure that are not in the local authority's gift to change – for example,

train capacity and frequency of trains, which are limited by bodies like Network Rail or Highways England.

Standardising assessments for housing requirements also removes any local input by local people. For example, if the demographics within an area are changing to an older population, it would make sense for local plans to prioritise adaptable housing and housing for key support workers that would support the older population. It also removes any flexibility in dealing with changing demographics, such as the migration to the countryside caused by Covid-19 pandemic. This needs to be carefully managed at a local level.

The White Paper also fails to address many of the issues highlighted in the introduction. For example, there are mentions of a failure to deliver built homes, without addressing practices such as 'land-banking' and the large numbers of approvals in pipeline that have not been built. Para 2.25 notes that land may be required for non-residential development, but there is no indication how this will be assessed. The focus of the White Paper is almost entirely on housing numbers and for housing targets.

Proposal 5 - Automatic planning consent

Development within 'growth' zones would effectively receive automatic consent for the principle of development in the form of an outline consent. As a result, there would be no opportunity for either public consultation or assessment by local authority councillors or officers. There is also a presumption towards development in the renewal zone. The consultation states that there would be public involvement in this process: 'We will consider the most effective means for neighbours and other interested parties to address any issues of concern where, under this system, the principle of development has been established leaving only detailed matters to be resolved.' This suggests that local residents and councillors would only be able to comment on detailed matters, rather than whether a particular building or development is appropriate in that locality.

Permitted development is still proposed to operate in protected zones. Permitted development has been responsible for the development of many sub-standard homes over the years. A study commissioned by MHCLG has shown that the quality of homes converted via the permitted development route are worse than homes that have followed a normal planning permission route.² In terms of creating healthy homes for the long term, the planning permission route appears to be more effective. The experience of environmental health practitioners confirms this finding. If permitted development rights are to continue, these need to be accompanied by more stringent checks to ensure quality of the housing being developed as well as appropriateness of the location for residential development. Many issues have resulted from residential conversions in inappropriate places, where there may be issues to do with noise, air pollution and foul odours, which harm the health of occupiers and their enjoyment of the home.

Proposal 6 - Faster decision making

We strongly disagree with the proposal to provide financial disincentives, via penalties, to local authorities to ensure speedy decisions are made on planning applications. Whilst timely decisions are beneficial, speeding up all decisions in this way can have negative consequences.

Many local authorities are already struggling with resources and this kind of disincentive is therefore likely to result in inappropriate decisions being made, where time is needed to negotiate with an applicant to modify a development proposal. It is also unhelpful to propose that where a local authority decision is overturned at appeal, the planning fee is refunded to the applicant as this will encourage further appeals by developers and incur greater costs for local authorities, thereby taking away already more resources from planning teams. Faster decisions also presume that there is less time for any public involvement in the decisions.

Proposal 7 - Local Plans should be visual and map based

More accessibility for public engagement is welcome but the overall ability of the public to be involved in planning decisions appears to be reduced, when taken together with other proposals in the White Paper. Faster decisions for applications and presumed permission for development in growth and renewal areas leaves little or no room for local input into individual decisions.

With limitations to comment on individual planning applications meaningfully, the only other way for local people to engage with the planning process would be via the development of their local plans. However, these would be set for at least 10 years and, given the new timelines, there would only be 6 months to comment on these.

Proposal 8 - Statutory timescales for Local Authorities and the Planning Inspectorate in relation to the plan-making process

The proposed 12-month timescale for local plan preparation is unrealistic. Any timescale needs to reflect the resources available to a local authority. Local authorities vary in size and resources, as well as the diversity of the areas they cover.

Proposal 9 - Retention of Neighbourhood Plans

No comment.

Proposal 10 - A stronger emphasis on build out

High density developments can create issues in terms of quality, nuisance issues and occupants' health. Sufficient green spaces within and around developments are vital for physical and mental wellbeing of the residents as well as for wildlife. Existing green spaces should therefore not be built over in urban areas but should be protected.

Furthermore, no account is taken of the relationship between overcrowding and health, such as COVID 19 and other infectious diseases, as well as the impact of small spaces on fire safety. Many local authorities have restrictions about houses being split into smaller and

smaller units as well as being converted into Houses in Multiple Occupation for these reasons.

Proposals 11-14 - Design Codes/fast-tracking beautiful buildings

There are a number of outstanding questions about how local design codes will work in practice and whether these can be objective enough to stand up to scrutiny in the courts. Whilst tight deadlines are set for local plan preparation, no such timescale is set for the preparation of design codes. The White Paper does not give any details about the process for their approval and the determination of whether there has been sufficient public involvement in the process. Giving a fast track for beauty and prioritising “popular and replicable forms of development” raises the question about how ‘popular’ will be defined and how this would be balanced against other priorities, such as the appropriateness of the building in a particular locality and the demand for that type of building. Last but not least, in addition to a national design code, there will be lots of local design codes. This will not help to simplify the development process for developers working across different areas.

Unfortunately, other important factors like noise, safeguarding health through minimum floor areas, natural lighting and ventilation, and designing for age, disability or family expansion are not even mentioned in the Planning White Paper, nor is there any consideration of longevity of designs, with the strong possibility that cheap design and construction will require even more housebuilding to replace short-lived housing in the future. Stronger assurance and enforcement of building standards and quality are needed to create buildings that last the test of time and age well. We would argue that no conversation about beauty can be had without first addressing the quality of buildings.

The White Paper says: ‘in areas suitable for development (Renewal areas), by allowing the pre-approval of popular and replicable designs through permitted development’. However, this seems to miss the assessment of other vital considerations, such as whether a standard design is actually suitable to the particular place and orientation. In urban areas, innovative designs may be needed in order to create good quality homes. For example, in built up areas, windows might need to be orientated to enable access to natural light.

Current developments exhibit many features of “tokenism” rather than having a cohesive design, with sprinklings of architectural features that are a nod to local cultural heritage, such as small amounts of stone cladding, Dutch gables, parapet walls or decorative lead or woodwork. All of these would be considered “popular and replicable designs” but are clearly a retrograde step in terms of beauty generated by real variety. The White Paper could inadvertently perpetuate and expand this visual sterility.

Proposal 15 - Amend NPPF on how reformed planning system can respond to climate change, mitigation and adaption and maximise environmental benefits

Whilst we support further consideration of the need to mitigate and adapt to climate change. However, the White Paper does not make any specific recommendations on how this would be achieved.

Proposal 16 - A quicker framework for assessing environmental impacts and enhancement opportunities

There is little detail offered as to how environmental impact assessments would be simplified. In some instances, it might be possible to simplify the process somewhat by removing some of the unnecessary categories in the assessment and providing a clearer guide to developers.

However, environmental impact assessments are a key tool used by environmental health teams involved in the planning process to assess the viability and impact of a particular project on the future health and wellbeing of occupiers. This includes things like the local air quality, noise issues, unpleasant smells and odours, land contamination and water, amongst many other considerations. All of these issues, if not picked up at planning stage, will cause major problems for the occupants once the building is built and occupied. Local authorities also have a duty to investigate noise and nuisance complaints. Therefore, a failure to deal with issues at the outset will incur a cost to the local authority and the developers down the line, if issues need remedying after the building is built and occupied. It is therefore important that the process is not simplified and shortened too much, whereby some of these environmental health considerations are missed during planning stages.

Proposal 18 - Improvements to energy efficiency standards

The White Paper states that the Government will respond in the Autumn on the Future Homes Standard and for energy efficiency targets beyond 2025. We will comment separately when this response is available.

Proposal 19 Community Infrastructure Levy should be reformed as a fixed proportion of development value

We oppose the proposal of local authorities receiving the levy at the point of occupation. Whilst there is a provision for local authorities to borrow funds in anticipation of receiving the levy, this approach passes on significant risks to the local authority. This could, in turn, jeopardise the provision of essential community services in any risk-averse authority, particularly as existing evidence shows that many developments stall or are deliberately delayed by developers who wish to stagger sales to achieve maximum prices. There is also a mention in the White Paper that the levy could be reduced if the market goes down: 'As a value-based charge across all use classes, we believe it would be both more effective at capturing increases in value and would be more sensitive to economic downturns'.

These three uncertainties combined would mean that local authorities could be borrowing money, which they may not be able to pay back. Whilst we support the aim to 'increase revenue levels nationally when compared to the current system', this would only work well if local authorities are able to collect the levy and do not end up with debt that they cannot repay.

Proposal 20 CIL to capture changes of use through Permitted Development Rights

We welcome the proposal to include a requirement for an infrastructure levy for permitted development, but it does not address our central concerns around the quality of homes developed via the permitted development route.

Proposal 21 CIL could be used to support Affordable Housing provision

We support the proposal to use discounts of the Infrastructure Levy to secure affordable housing. However, the local authority should also be able to require the provision of affordable housing on-site, where this is a key part of their local plan.

The White Paper says it will “continue to deliver on-site affordable housing *at least at present levels*” but removes Section 106 agreements. It also says that “authorities would be able to use funds raised through the levy to secure affordable housing” but states that the levy would be collected at the point of occupation. We don’t believe that that the government has provided sufficient evidence that replacing the existing system of Section 106/CIL with a consolidated Infrastructure Levy will deliver more or the same levels of social housing on-site.

We believe that it would be possible to reform Section 106 to make the process faster, more certain and more transparent to deliver affordable housing. For example, by using existing local good practice and ensuring it is adopted more widely. Entirely replacing the existing system, instead of building on it, risks jeopardising what has become a vital tool for delivering social housing. It has taken several decades to get Section 106 to the point where it is delivering £4.7 billion in affordable housing value a year.

Proposal 22 More freedom for LAs on how they spend CIL

No comment.

Proposal 23 Development of a comprehensive resources and skills strategy

We have serious concerns about the impact on resources of planning teams if the proposals in the White Paper were to be implemented. If a decision is given late to a developer, a local authority would be fined. Furthermore, enabling the return of fees to those who appeal against a local authority decision successfully would deplete resources by encouraging a higher number of appeals.

Environmental health teams typically work together with planning teams to assist with the assessment of environmental aspects of the proposal. However, environmental health teams have also been stretched for some time. We have heard that in some councils, environmental health teams already do not have capacity to engage with every planning application.

Proposal 24 Enforcement powers and sanctions will be strengthened

The lack of powers and resources for planning enforcement is perhaps the greatest weakness in the current planning system. If enforcement is to be dependent on compliance

with a new national design code, rather than with the specific local planning authority's policies, such a national code has to be objective with measures that can be enforced.

Stronger enforcement of planning contraventions should be accompanied by better enforcement of building control to ensure final build quality. There have been many instances in recent years where new build homes have been found to be of a sub-standard quality once the homes are occupied.³ The safety of new housing, in particular, needs a review and better enforcement. For example, using alternating stairs, inappropriately placed grips, rails, difficult-to-replace lighting.

Furthermore, there are many other aspects of delivering healthy and decent homes that need to be set out and enforced. For example, liveability of a particular unit, including internal living and storage space, privacy (within and between units), usability (getting furniture upstairs, poor circulation spaces and access to natural lighting. Amenity provision by developers, such as shops, parks and play areas always lag or are never built in some cases.

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/902220/Research_report_quality_PDR_homes.pdf

2

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/902220/Research_report_quality_PDR_homes.pdf

³ <https://www.bbc.co.uk/news/business-50827576>