

# PLANNING FOR THE FUTURE CONSULTATION COMMITTEE A RESPONSE FROM BARTON WILLMORE LLP

THE PLANNING WHITE PAPER PROPOSES SIGNIFICANT REFORM TO THE ENGLISH PLANNING SYSTEM, AT A TIME WHEN EFFICIENCIES AND A NEED FOR MODERNISATION HAS BECOME MOST APPARENT. THE COVID-19 PANDEMIC HAS ALSO PROVIDED AN INSIGHT INTO HOW WE COULD USE OUR HOMES IN THE FUTURE, THE IMPORTANCE OF OUR ENVIRONMENT, AND THE URGENCY TO ADDRESS CLIMATE CHANGE.

As the UK's largest, independent inter-disciplinary planning and design practice, we support the government's ambition to place high quality development at the centre of a strategy to build our way out of a potential recession and the ongoing housing crisis. In our role, guiding schemes for over 200,000 new homes and communities UK wide every year, we recognise the fine balance of limited Local Authority resourcing, and the need to build community support alongside investor risk, as well as the importance of genuine, sustainable and high-quality placemaking. So what, how and where do we build?

The Ministry has no doubt received wide ranging comments from many, to their 20+ questions. To make our response easier to digest, we have set out our headline thoughts on the challenges at the heart of the white paper's proposals, and the solutions we believe are open to us in response.

In framing our response, we have had the privilege of hosting several conversations, published through 'podcasts' – held as part of the Barton Willmore Uncut. In Conversation series - which have brought together voices from across the industry and enabled us to openly debate some of the proposals made.

We have also drawn upon recent research completed around the opportunities for DCO's to meet the challenges of strategic land promotion, and lessons learnt in the creation of our new Greenkeeper tool. Designed to move the debate around greenspace on from space standard compliance to instead how it addresses social, environmental and economic needs of surrounding communities, the requirement for this tool demonstrates how easily 'planning by numbers' can undermine efficiency and placemaking in our industry.

## THE SYSTEM TODAY AND THE CORE REQUIREMENTS FOR CHANGE

The planning system regulates the use and development of land in the public interest. Over the years, the system has expanded with the range of 'material considerations' becoming ever broader. Community engagement has increased, but alongside this so have concerns as to a lack of transparency and accountability. The drive for local decision-making has been at the behest of strategic planning. The two are not incompatible.

The planning system since 1947 has achieved much. We have protected valued landscapes, cherished buildings and places, as well as delivered the regeneration of towns and cities, during a period of deindustrialisation. In seeking to reform (and we say reform means improve), we must be clear as to what the planning system can and should deliver. In defining that, the public interest must be clearly articulated, understood and embraced by the communities the planning system serves. A degree of honest reflection is also required. Whilst acknowledging the successes, we need to understand the reason for the shortcomings: are these a function of system failure or operator failure? Or both?

Since the 1970s, we have continually failed to provide enough homes at the right time or in the right place. Many communities feel that infrastructure provision, especially health and education, falls behind need, whilst at the same time, the decision-making process has become more complex and local plans continue to meander through whichever system is in place.

We have increasingly handed responsibility for development and delivery to the private sector, but our development plans process limits the private sectors' ability to shape our plans. This has ever been thus, however the rise in community involvement and anti-development sentiment in recent years has changed the face of local political involvement in the production of development plans and in decision-making. There is now a dichotomy between a plan-led system that is driven by local politics and the development industry. There is an increasing breakdown in the public/private relationship and a lack of consensus upon the role of the local plan in encouraging good development and the benefits that it brings.

This is the reality that will sit behind and around any new system. Ultimately, the lack of planning (or an inefficient and cumbersome system that does not address need) fails us all.

## KEY POINTS TO CONSIDER

As a headline response to this white paper therefore, we would ask the government to consider the following key points:

- » **In driving to secure an efficient and fast planning system** we must ensure that we do not deliver an approach which further reinforces generic, 'planning by numbers' style approaches, or is fundamentally undermined by a lack of resource or skills within the Local Authorities tasked with delivery.
- » **In seeking to guide and deliver higher quality 'beautiful' places**, including through Design Codes (which are but one tool), we must ensure that we do not undermine our ability to secure innovation and variety.
- » **In seeking to front-load the process** we must be mindful that we are not burdening the local plan process with too much upfront cost which will undermine any ambitions to broaden to SME participants and limit the consideration of alternative and scrutiny thereof.
- » **In undertaking a reboot of how we deliver planning across the country** we must carefully consider operational behaviours as well as the system itself. We, and many in our industry, believe there are existing comprehensive methods and processes for achieving efficiency that are not being utilised and there is therefore a danger that additional change will also not succeed.
- » **In seeking to drive a step change in delivery**, we must ensure there is a sufficiently strategic level vision to guide everything and secure both cohesion and credibility.

# QUESTION SPECIFIC RESPONSES SUBMITTED ONLINE

## DELIVERING LOCAL PLANNING

PILLAR ONE  
QUESTIONS  
5, 6 & 12

**Local Plan production** - We welcome the intention to deliver faster, streamlined Local Plan production, within a 30-month period, but this requires a huge step change in delivery. Adequate resourcing of Local Authorities. A clear understanding of the process and purpose of Local Plan documents is also essential as is the understanding of a duty to positively plan, to meet need.

“ *As a first step, the planning system should address planning matters.* ”

**Streamlining of decision making and allocation of sites upfront** – There is much merit in streamlining the consenting regime and Local Plans, due to the high degree of duplication and a burden of assessment and supporting material that is ever increasing. Local Plans are also burdened by excessive generic policies and therefore efficiency can be achieved by focusing on a more spatial response to the strategic objectives.

As a first step, the planning system should address planning matters. It should not be used to promote or deliver regulatory matters in relation to building performance for example, as these are what building regulations are for.

By seeking to enshrine the terms of an ‘outline planning permission’ into a Local Plan allocation, we may well burden the Local Plan with a level of detail that prevents the speeding up of process and undermines flexibility. A balance must be struck.

An additional result of front-loading ‘permission’ into the Local Plan is that the level of detail required mitigates against the promotion and consideration of alternatives, and the ‘repair’ or improvement of Plans through the process of iteration and

examination. The level of assessment and scheme design required would therefore be delivered at risk, until allocation, and therefore places a further financial burden on development. This in turn then both reduces the ‘space’ for other measures or interventions, as well as potentially limiting the opportunities for SMEs to participate.

In delivering a streamlined approach, we must also be careful that we do not resort to ‘planning by numbers’. There is a place for standards, but these can result in monotonous and potentially poor design responses, as well as a lack of land use efficiency. This is something we have been looking at closely with regards to greenspace infrastructure delivery, where space standards have dominated policy and therefore limited the opportunity to consider and drive greenspace provision based on its many wider benefits. Greenkeeper is a tool which allows green infrastructure to be delivered in a way that objectively meets the health and wellbeing needs of existing and new communities while maximising the environmental and economic benefits for our urban areas.

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### **Environmental Assessment (SEA/SA/EIA)**

– The existing regulations cover strategic (SEA) and project (EIA) level environmental assessment. The processes are distinct and play a vital role in achieving sustainable development. We support a review of how the processes interact to check for duplication and ensure efficiencies are achieved. We also support a review of the environmental assessment process to play a broader role in achieving environmental, climate, health/wellbeing and economic outcomes.

# DELIVERING HOMES WHERE THEY ARE NEEDED

PILLAR ONE  
QUESTIONS  
8A & 8B

## **Purpose and credibility of a housing number**

– Planning translates housing policy spatially, but it is not a substitute for housing policy. Housing requirements (the current and revised standard method consulted on earlier this month) are simply a numeric calculation based on demographic trends and profiling.

At its core, housing policy, and therefore planning, should seek to meet demographic needs and growth ambitions, adjusted to reflect the social and economic policy ambitions. It should increase supply where affordability is at its worst and seek to intervene where there are both need and affordability challenges, that the market is failing to meet alone i.e. regeneration and renewal. But the current approach to standard method rarely meets all these objectives.

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By moving to set housing targets at a national level, we agree that there is a stronger chance these objectives could be met. However, when they are not based within a wider national context of economic ambition and measures to support and drive this, they lack credibility and will not result in the delivery of homes where and when we want them, in a manner that is consistent with wider economic, environmental and social policies. We have previously lobbied for a national plan (through both our Wolfson Economics Prize submission in 2014 and more recently through support of the UK 2070 Commission) that spatially sets out and drives infrastructure-led growth which is capable of supporting the realisation of levelling up.

Fundamentally we also believe that the Government needs to look beyond just housing delivery as a measure to drive levelling-up and economic growth. Commercial property and the associated job growth it delivers appears to have been overlooked in the white paper. Economic growth, welfare and healthy life outcomes for all can be achieved by more than just access to housing, and therefore wider targets and measures should surely sit alongside housing delivery, as measures of planning success?

**National Development Policy** – As discussed in one of our podcasts, we agree that the move to establish housing numbers at a national level is particularly helpful in aiding decision making at a local level. We do however believe that this needs to go further. In projects across England we are wasting time and development finance disputing housing requirements with Local Authorities, where the pressure of local politics and a rolling cycle of partial elections mitigate against strategic long-term decision making. The short-term political cycle is undermining delivery, undermining viability and reducing quality.

With need established centrally or regionally, at an appropriate spatial scale, the discussion could move to setting the spatial strategy at the local level, ensuring that sites allocated are the most sustainable and reflecting the community's wider ambitions and needs. We believe that through a move to larger unitary authorities we can address many of the localised issues that render plan-making slow (not least the 'Duty to Co-operate') and address needs across a wider spatial context, that better reflects the economic,

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environmental and social needs of the area. Neighbourhood Plans can then address the local needs and apply strategic policies where appropriate at the parish/neighbourhood plan level. Presently it is acceptable to not meet your need and task an adjacent Local Authority with the challenge of dealing with it. If we have commonality of purpose via an overarching vision, cross-boundary matters aren't a problem, and it is accepted that it is unacceptable to not achieve targets.

**Standard Method** - In principle we agree that a revised standard method for establishing housing requirements that considers constraints, should be introduced, provided that:

1. There is an overall housing growth target in place. The white paper commits to this (300k per annum), but only to achieve 'one million homes by the end of this parliament' - this is too short term.
2. For the sake of effectively managing delivery and providing for regional balance, the target should ideally be regionalised (applied between regions – or another workable sub national level, such as might come forward through local government reform and devolution, addressing the spatial function the commercial and housing markets).
3. The definition and scope of constraints are reviewed to ensure that they are fit for purpose. A major challenge here being - should they constrain housing development and reduce the requirement or simply require provision to be reallocated elsewhere?
4. We need a debate around what this means for Greenbelt designation. The white paper states that the existing policy for protecting Greenbelt would remain, in which case, can it be included as a constraint? We have and will continue to lobby for a real debate and considered review of this policy, its aims, purpose and application.

**Affordability and extent of urban areas as indicators** – We agree that affordability is a reasonable indicator of undersupply, to the extent that nationally the affordability ratio (c8x median incomes at present) is a clear indicator that England is significantly undersupplied and in the midst of a housing supply crisis. This relationship holds true across housing market areas (sub regions) but at Local Authority level, as the sole indicator of need, we believe it provides too crude an estimate of need and should be moderated.

“ **The proposal to use the local extent of urban areas to distribute the national housebuilding target is blind to the opportunity new settlements present.** ”

Housing markets operate across local authority boundaries and are not wholly self-contained. As such we believe this further endorses our thoughts regarding a regional (or other workable sub-national substitute) approach to addressing affordability should be adopted. This will help smooth out the marked regional disparities that the current standard method creates – e.g. stacking need in London.

The proposal to use the local extent of urban areas to distribute the national housebuilding target is blind to the opportunity new settlements present. The focus therefore also needs to be broadened or considered, to support proposals to create sustainable new settlements, outside the envelope of urban areas and potential urban extensions.

# THE NSIP REGIME AS AN ALTERNATIVE ROUTE FOR NEW SETTLEMENTS

Since 2018 we have been conducting research into this very opportunity – Can the DCO regimes help meet the challenges of our time? – alongside key partners Womble Bond Dickinson and Copper Consultancy and more recently alongside our core clients of strategic land promoters operating across the country. Our response to this question is therefore based on our findings from this two-year research programme.

We believe the DCO process can indeed play a key role in enabling the delivery of new settlements and other large-scale strategic schemes to meet national housing and employment need in a sustainable manner. The consenting process introduced by the Planning Act 2008 (the Act) has established itself as robust, reliable and effective, with an ability to withstand legal challenge. This, in turn, has created an inbuilt sense of trust in the process.

## ■ ■ *The DCO process offers a consenting mechanism that could provide a credible alternative to the existing Town and Country Planning Act (TCPA) approach to new settlement delivery.*

For its potential to be realised however, key aspects of the DCO process will need to be adapted to meet the particular needs, challenges and opportunities presented by the planning and delivery of new settlements. Delivery of new settlements for example is a complex process involving a wide range of stakeholders before, during and post-consent. The DCO process offers a consenting mechanism that could provide a credible alternative to the existing Town and Country Planning Act (TCPA) approach to new settlement delivery.

The key attributes the DCO process brings to the consenting process are:

- » Statutory timescales and stages which maintain project momentum.
- » A strong national policy framework (albeit one that needs to be up to date).

- » Rigorous and open examination of proposals and their benefits and impacts.
- » The ability for promoters to prepare the powers, including compulsory acquisition and other consents, required to deliver the project.
- » The requirement to engage extensively with stakeholders at pre-application, and for this to inform the DCO application.
- » The ability to handle political and legal challenges, cross-boundary issues, and ensure a fair hearing for multiple local authorities and statutory consultees, landowners, local communities and the general public.

Through our extensive recent and ongoing research with strategic land promoters nationwide, we believe the structure of this consenting process could bring many benefits to de-risking the approach for all parties, enhancing engagement, and delivering strong public/private partnerships. A national policy framework – some form of national articulation of need for housing or new settlements – is however critical if this is to offer a real step change. In our research, for example, we considered the establishment of a National Spatial Settlements Strategy, covering all consenting routes, which has the equivalent weight in decision-making as a National Policy Statement (NPS).

This policy would drive and integrate the delivery of new settlements around economic/employment need and infrastructure growth ambitions but also remove one of the core inefficiencies of the TCPA process – the debate of need – from the project timeline, and in this way we believe the DCO approach offers a real step change to the TCPA approach. For this to work, and to avoid endless debate and cycles of legal challenge however, there must be a statement of need at the national level as we have outlined above.

New settlements, by their nature, integrate infrastructure and development in complex ways and also need to be considered in the context of other nationally significant infrastructure projects that serve wider development and purposes, for example national gas and electricity networks, ports and airports. It is this scale of project that the DCO regime was introduced for.

# ROLE OF DESIGN CODING AT ALLOCATION STAGE AND WHAT IT LOOKS LIKE

**Design Coding is a two-tier process** - We welcome the Government's drive to improve design quality and sustainability, which will give greater certainty to communities as to the form of development that will be provided. Having delivered Design Codes for over 20 years on strategic schemes across the country, we are only too aware of the challenges inherent in providing a level of guidance that encourages quality and consistency, without quashing creativity and innovation.

There is no question Design Codes can lift the quality of schemes but, on large scale strategic sites especially, a two-tiered process is essential, if there is to be sufficient flexibility to enable long term build out rates. As such we believe simple design principles should be applied at a Local Authority level, which can then be built upon for site specific proposals, therefore driving efficiencies while still facilitating innovation and creativity. A good design code can add quality, deliver variety and coherence. A poor Code will result in standardisation and 'sameness'.

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The position in which Design Codes are at their most effective and usable to all parties within the planning and design process is once the broad principles of development and associated site strategies have been considered, consulted upon and agreed. Front loading the production of them within the Local Plan process must be considered within this parameter.

**Resourcing and responsibility** - Resource shortage, and the lack of urban design skills specifically, is a huge challenge within Local Authorities today. On another of our Podcasts, we were joined by an Urban Design Officer from a Local Authority who at one point covered two Local Authority areas guiding two major strategic developments plus all the smaller local design proposals. Compare this with the city of Gothenburg where they have 100+ people in the City Authority working solely on Design Codes. We have a serious challenge of skills and resource shortage in Local Authorities to guide a major shift to Design Coding that needs immediate attention.

We strongly believe that site specific or allocation specific codes should be led by the developer or promoter working closely with the local authority, as they can provide the necessary level of expertise and are where the burden for engagement and ensuring community involvement is placed. Codes or guides relating to existing neighbourhoods, setting out the approach for householder extensions for example, should be led by the Local Authority or Neighbourhood Forum.

Whilst we support the wholesale review of CIL, we are concerned that we will replace the existing system with another that is equally flawed. There is an urgent need for a wholesale review of the regulations drafting. These have created an 'industry in their own right' and now inform the formulation of schemes. This was surely not the intention.

We need to be clear as to what we are trying to achieve. Is the intention to find a transparent way of ensuring that all development contributes to or provides the mitigation necessary? Or is it to tax the uplift in land value arising from the grant of permission or tax further the profits of development? These are two very different objectives leading to different responses. We believe that the planning system should deliver mitigation.

The CIL regime was promised to deliver a transparent, simple mechanism to ensure that all development paid towards mitigation. The link between development and delivery

of mitigation has been broken (or weakened) and maintaining this link is fundamental in building community support for development.

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If the intention is to tax development or land value uplift further, then this is a political matter, not planning. Others will comment extensively on the proposals as clarity and certainty is essential and any reform must be based on achieving this and in securing the actual provision of infrastructure in a timely and transparent manner.

WE HOPE THIS OVERVIEW OF OUR RESPONSE TO THE 'PLANNING FOR THE FUTURE' CONSULTATION IS USEFUL TO INFORM OR FRAME YOUR OWN VIEWS IN RELATION TO PROPOSALS WHICH COULD HAVE A HUGE IMPACT ON THE WAY WE OPERATE THE PLANNING SYSTEM. IF YOU WOULD LIKE TO DISCUSS ANY ASPECTS OF THIS DEBATE FURTHER, OR UNDERSTAND WHAT IT MEANS FOR YOUR REGION OR PROJECT, PLEASE DON'T HESITATE TO CONTACT YOUR LOCAL BARTON WILLMORE TEAM.

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