

CPREssex RESPONSE TO ‘PLANNING FOR THE FUTURE’ WHITE PAPER

Q1 - What three words do you associate most with the planning system in England?

The three words associated with the current planning system: Enabling; Democratic; Robust.

Q2 - Do you get involved with planning decisions in your local area?

Yes. CPREssex is actively involved in the local planning process at all levels.

Q3 - How would you like to find out about plans and planning proposals in the future?

Automatic notification by email or on-line alerts would be a helpful way to be made aware of the latest developments regarding both plans and planning proposals. However, digitising services will not necessarily increase engagement unless people are motivated to access them and can see that engaging has an impact on the outcome.

Q4 - What are your top three priorities for planning in your local area?

The top three priorities for planning in Essex: Environment, biodiversity and climate change action; Protection of green spaces; Building the right homes for the right people in the right places.

With respect to the first priority, evidence shows that healthy communities need nature and the sense of well-being that interaction and appreciation with the natural environment can promote. It is now more critical than ever, that the Government should focus more policy objectives and resources to tackle the ecological crisis and biodiversity loss. It is worth noting, however, that no explanation is given in the White Paper on how a reformed planning system will contribute to nature’s recovery, beyond tenuous nods to ‘net gain’. More detail is needed on how Local Nature Recovery Strategies, as set out in the draft Environment Bill, are to be integrated into the planning system to provide the foundation of a Nature Recovery Network.

Q5 - Do you agree that Local Plans should be simplified in line with our proposals?

No. The proposals for all land to be zoned into three simple categories is extremely unrealistic and naive both in practical and functional terms. Planning is a much more nuanced art than the proposals suggest. If a zoning approach is to be introduced then significant additional community engagement opportunities are necessary: firstly to shape the zoning process itself; and secondly to create masterplans and design codes/briefs for zones and the sites within them.

Considerable public criticism of the planning system in rural Essex is around speculative planning applications in open countryside, allowed on appeal. The proposed zoning must put an end to this and enable a return to a truly plan-led system.

Further, we do not consider that differential or additional consenting regimes are an acceptable way forward, and indeed there is a high risk that these would produce inequalities of access to the democratic process of planning, because people’s opportunities to engage and scrutinise will differ depending on the zone in which they live.

Q6 - Do you agree with our proposals for streamlining the development management content of Local Plans, and setting out general development management policies nationally?

No. The White Paper has a point about the content of Local Plans - there is far too much restating of national policies and not enough about local issues and in particular design, environmental standards etc. The volume of content could be reduced significantly and refocused to make it more public-friendly.

However, every site is different and each application must continue to be viewed on its individual merits in line with Local Plan policies. Local Planning Authorities (LPAs) need the flexibility to

include development management (DM) policies that are site specific in their area but may not be relevant or appropriate at a national level - for example, Essex authorities have a 'protected lanes' policy, based on studies undertaken by Essex County Council.

The proposal not only removes local democracy but, given that the circumstances of each local authority area are different, a 'one size fits all' national approach would be extremely damaging.

Q7 a) - Do you agree with our proposals to replace existing legal and policy tests for Local Plans with a consolidated test of "sustainable development", which would include consideration of environmental impact?

No. General sustainability tests are too vague. Specific policies are necessary. This highlights a fundamental flaw in the White Paper – that it re-designs the planning system entirely around the objective to deliver an arbitrary annual housebuilding target, rather than to tackle the climate emergency and deliver sustainable development in the round.

b) - How could strategic, cross-boundary issues be best planned for in the absence of a formal Duty to Cooperate?

There is an important role here for Strategic Plans prepared at a sub-regional level. In particular, they would be most relevant for cross-border issues - especially infrastructure requirements.

Q8 a) - Do you agree that a standard method for establishing housing requirements (that takes into account constraints) should be introduced?

No. The proposed revised standard method is mathematically unsound, because it takes three separate variables - household projections, stock levels and affordability ratios - but crudely chooses the highest number that the combination of the variables can produce for any given LPA. Fundamentally, a standard method is not appropriate due to the wide range of differences in an area's physical characteristics from one LPA to another. Factors such as the availability of brownfield sites, significant landscapes and heritage constraints should be major considerations in determining the housing requirement for each area. These limiting factors cannot be properly allowed for by a standardised method for establishing housing requirements.

b) - Do you agree that affordability and the extent of existing urban areas are appropriate indicators of the quantity of development to be accommodated?

No. The affordability adjustment to the housing requirement is a nonsense. One of the biggest issues for rural authorities in Essex (and the South East generally) is how their housing requirement relates to the affordability adjustment. This will add hugely to the number of houses that need to be delivered. For example, under the new proposals a household projection figure for Essex's most rural district (Uttlesford) of 479 dwellings per annum is inflated to over 1200 as a consequence of the proposed affordability adjustment with potentially massive adverse consequences for the local environment. There is understandable widespread concern about the impact of this huge uplift on the county's protected green spaces - including the AONB and Green Belt - as well as sensitive coastal fringes and highly productive farmland.

The whole affordability principle is based on a flawed premise - ie the Government's naive belief that house prices can be lowered simply by increasing the stock. Allocating large swathes of the countryside (especially in areas of high landscape value) for development will not assist affordability in those areas but simply attract more buyers from outside.

In perpetuating this argument in the White Paper, the government is ignoring the findings of the independent review into build-out rates conducted by Oliver Letwin in 2018. This concluded that increasing the supply of housing land would never reduce house prices since developers will always

release new houses at a rate which maintains existing prices. While the White Paper does mention this issue, it suggests that the problem could be overcome by having several house-builders operating in competition on the same site. This ignores the basic fact that Government has no control over which company can build houses on any one site (unless the land is publicly owned). The method is also strategically counterproductive, because it concentrates new housebuilding in the places where it will produce the most expensive homes, and addresses neither the challenge of leveling up growth between higher and lower demand areas, nor the chronic shortage of genuinely affordable housing.

The extent of existing urban areas should however be used as an indicator of the capacity for development. Larger urban areas will have better existing infrastructure and local amenities capable of accommodating growth. The approach is therefore much more in keeping with sustainability principles.

Q9 a) - Do you agree that there should be automatic outline permission for areas for substantial development (Growth areas) with faster routes for detailed consent?

No. Despite bold claims about zoning, there is in fact little clarity about the practicalities of what is envisaged. Automatic outline consent in Growth Areas could lead to serious anomalies. In large Growth Areas there will inevitably be parts where different parameters apply. Automatic consents will imply a standardised approach to development which would not be applicable in all zones. Zoning would result in a heightened tension between communities wanting to be in a Protected zone and landowners with developer interest wanting to be in a Growth zone. Thus the fringe land between those two zones is likely to become even more contested than it is at present. If, as proposed, the consequences of being in one zone or the other are legally binding and come with different consenting regimes, then the stakes will be much higher and the battles worse.

b) - Do you agree with our proposals above for the consent arrangements for Renewal and Protected areas?

No. Whilst there may be benefits in giving increased protection to non-Green Belt countryside, this is not really what is proposed. Firstly, the Protected zone does not appear to come with additional protections, but rather a retention of the existing discretionary planning system from which the Growth and Renewal zones are awarded complex exemptions. This means that non-Green Belt countryside will still be less protected than Green Belt. Since Local Plans are to be renewed every five years to allow for updates to the housing requirement, this could result in quite frequent changes to the boundary between a Growth zone and a Protected zone, so there is a risk that Green Belt boundaries will lose the permanence that is essential to their function. In Essex, this would be particularly damaging, given the extent of the Metropolitan Green Belt in the south of the county.

c) - Do you think there is a case for allowing new settlements to be brought forward under the Nationally Significant Infrastructure Projects regime?

Allowing new settlements to come forward under the Nationally Significant Infrastructure Projects (NSIP) regime would be uniquely damaging to public trust in the planning system and their opportunity to shape it through local democracy. Making the largest developments those that are most divorced from the local planning process and its associated public scrutiny would mean that promoters of very large sites would be able to bypass the LPA altogether and apply directly for planning permission via NSIP. As far as the general public is concerned, this is yet another consenting route, with a different consultation and scrutiny process, but this time it will also sit outside the new-style Local Plan process in which they have, in theory, been encouraged to participate. Recent experience across north Essex, where the Planning Inspector concluded that

proposals in the joint spatial strategy for three new Garden Communities were unsound was subject to a thorough and transparent Examination in Public.

The White Paper's proposal is therefore a mechanism to bypass this process in local democratic engagement. Also, since NSIPs are exempt from the provisions of the Environment Bill in terms of the requirement for new development to deliver 10% biodiversity net gain, there is a serious environmental protection deficit.

A much better option than the NSIP regime would be to encompass new settlements and other strategic-scale developments within larger-than-local Strategic Plans. These can include Combined Authority plans, joint plans prepared by a grouping of District Councils in two tier counties, joint plans between Unitary Authorities and plans which cross county boundaries.

Q10 - Do you agree with our proposals to make decision-making faster and more certain?

Yes. We agree with the underlying objective, but not with the way that is proposed to be achieved. Decisions need to continue to be made at a local level by locally elected representatives both for Local Plans and individual applications. There is no need whatsoever for different consenting regimes in order to make zones work. In planning terms they simply need different development management policies, and in implementation terms they need strategic vision, partnerships and investment. By contrast, the White Paper proposes a cocktail of consenting regimes, including automatic permissions, Permissions in Principle and Local Development Orders, which amount to additional layers of planning work. This risks further complicating the system and appears significantly less open to public scrutiny than the existing planning application process. Crucially, the alternative consenting regimes take away important opportunities for elected councillors to review schemes at outline stage, which is a deeply undemocratic outcome. Further, when combined with the Government's proposal to extend the NSIP regime to major housing developments, there is high risk that the largest developments will be those with the least opportunity for democratic engagement and scrutiny.

Q11 - Do you agree with our proposals for accessible, web-based Local Plans?

No. Digitising Local Plans to a standard format will not increase engagement per se. People have to be motivated to access them in the first instance and need to see that engaging has an impact on the outcome. However simplified formats and improved presentation (designed for digitalisation, rather than printed copy as at present) would be helpful both in terms of the presentation and the extent of the content as well as in terms of access.

Q12 - Do you agree with our proposals for a 30 month statutory timescale for the production of Local Plans?

No. Whilst there are strong and valid reasons to speed up the process of plan-making, the proposed 30-month timetable for new style Local Plans seems wholly unrealistic. Even those LPAs that still have well-resourced, well-experienced planning teams can take several years to prepare plans. The situation in Essex is complicated by proposals for local government reorganisation. Here, the districts that will comprise the newly defined LPAs will have Local Plans at differing stages of completion, adding to the confusion and requiring a longer time period for transition.

Aspirations also appear directly at odds with the aim of opening up the process to greater participation. The White Paper only actually specifies public comment during the 6-week 3rd stage, and the Examination Inspector will have discretion as to how the public's right to be heard will be exercised.

Q13 a) - Do you agree that Neighbourhood Plans should be retained in the reformed planning system?

Yes. Neighbourhood Planning provides local communities with the best opportunity for meaningful engagement in influencing the future of their area. In Essex, Neighbourhood Plan (NP) preparation has shown that communities are very well placed to add a local level of detail to generic district-wide policies relating to community facilities, heritage, design and the environment.

Neighbourhood planning was founded on the proposition that communities, if given the policy levers, would be more accepting of development. The White Paper's stated goal for enhanced community engagement in plan making (together with the recommendations of the Local Plan Expert Group in 2016 on how Neighbourhood Planning should enable quicker, strategic Local Plan making) make the case for retaining this level of local planning.

However, it is entirely unclear as to how a new zoning system will work in conjunction with NPs. The proposals for zoning, site allocations and development management policymaking all exclude NPs, relegating them to nothing more than town and village design statements.

The other crucial issue here is the relationship between NPs, the new-style Local Plans and the loss of discretionary stages in development management. On the face of it, the White Paper therefore poses an existential threat to Neighbourhood Planning.

b) - How can the neighbourhood planning process be developed to meet our objectives, such as in the use of digital tools and reflecting community preferences about design?

Neighbourhood Planning groups will put to good use any resources at their disposal - what they really rely on is motivated, conscientious volunteers with confidence in the value of the Plan. If the Government wishes to change the role of Neighbourhood Plans then it must put forward tangible proposals that communities can understand and give meaningful comment. The future scope of NPs seems to be restricted to matters of design because their current ability to allocate sites and set development management policies are not reflected in the new proposals. However, design is only one aspect of NPs and if they are to be restricted to design matters, how will they be distinct from an informal community stakeholder group coming together for the sole task of shaping a Design Code?

Q14 - Do you agree there should be a stronger emphasis on the build out of developments? And if so, what further measures would you support?

Yes. A stronger emphasis on the build-out rates of larger residential developments should be applied. Evidence over the years has consistently shown that it's not the failure of the planning system that results in housing targets not being met - rather, it's the land-banking practices of major house-builders that are the main cause.

Q15 - What do you think about the design of new development that has happened recently in your area?

The standard of design throughout Essex (and elsewhere) is generally very poor - there are examples of good practice (eg the UK's first rural, social housing Passivhaus development in Wimbish) but too much is of indifferent quality. To meet the government's 'net zero' target to reduce carbon emissions to 1990 levels by 2050, it is imperative that homes are built to last and to the highest standards of sustainability. This should mean that all the key elements - such as, solar panels, triple glazing, best insulation available - becoming the normal standard. Those going beyond this should be rewarded - for instance, providing air sourced heating systems.

Q16 - Sustainability is at the heart of our proposals. What is your priority for sustainability in your area?

Sustainability priorities for Essex would include: Less reliance on cars by reducing the need to travel; Protection of existing landscapes; Energy efficiency of new buildings.

Q17 - Do you agree with our proposals for improving the production and use of design guides and codes?

If design codes are to be central to how people engage in the system, then they need confidence in the process itself, which must be participative and requires access to time, resources and an excellent set of skills. They also need confidence in the outcome: at present there are many examples of developers not adhering to codes or briefs that currently exist, either as Supplementary Planning Documents or produced to support conditional outline permissions. Design standards have to be enforced, so clarity is needed as to how design codes are to be upheld and what procedure is required to renegotiate or diverge from an agreed code.

Q18 - Do you agree that we should establish a new body to support design coding and building better places, and that each authority should have a chief officer for design and place-making?

Yes. However, we would emphasise that design codes should be established at local level to suit the local environment. These will best be achieved through Neighbourhood Plans or design guides prepared by local communities. In Essex, LPAs vary in their use of codes and briefs, depending in part on their resources and skills. This can lead to the granting of planning permission to development proposals that have poor design standards, with little regard to local character. As a result, the proposed establishment of Director of Place roles in each authority would be positive and welcome.

Q19 - Do you agree with our proposal to consider how design might be given greater emphasis in the strategic objectives for Homes England?

Yes. Design should be a major factor in the allocation of grant funding for housing. As too, should adherence to the Building with Nature certification scheme, UK.

Q20 - Do you agree with our proposals for implementing a fast-track for beauty?

No. We agree that much greater priority should be given to the quality of design and also to the improvement of environmental standards, but a “fast track to beauty” will undermine democratic control and community engagement in the planning system. Also, we think that beautifully designed houses should not be built if they are deemed ‘beautiful’ but located in the wrong place.

Q21 - When new development happens in your area, what is your priority for what comes with it?

Key priorities associated with new development throughout Essex include: More affordable housing; Better infrastructure; Design quality.

Q22 a) - Should the Government replace the Community Infrastructure Levy and Section 106 planning obligations with a new consolidated Infrastructure Levy, which is charged as a fixed proportion of development value above a set threshold?

Yes. In principle, if the new Infrastructure Levy (IL) amounts to a development value tax, then this has the potential to offer a simplification that may be welcomed. Land value capture is an important

principle that CPREssex supports and a value tax has potential to be fairer and more easily administered than the present system.

b) - Should the Infrastructure Levy rates be set nationally at a single rate, set nationally at an area-specific rate, or set locally?

The Levy should be set locally based on a national formula, as recommended by the CIL Review, and a bespoke, negotiated arrangement for larger schemes. These recommendations were built on extensive research, but, as with other aspects of the White Paper, it appears that recent, high quality evidence of the recommended reforms has not been heeded.

c) - Should the Infrastructure Levy aim to capture the same amount of value overall, or more value, to support greater investment in infrastructure, affordable housing and local communities?

The IL should aim to capture more value to support higher investment in local communities. New development rarely comes with adequate infrastructure to meet the need that it creates.

d) - Should we allow local authorities to borrow against the Infrastructure Levy, to support infrastructure delivery in their area?

Not sure. Local authorities should be able to borrow against the Levy but only if the Levy is payable upon commencement of the development rather than related to occupation. Otherwise the local authority is taking a high development risk.

Q23 - Do you agree that the scope of the reformed Infrastructure Levy should capture changes of use through permitted development rights?

Yes. Permitted Development Rights have increased in recent years and it would seem reasonable that, where this results in residential development, a contribution towards local infrastructure should be made - particularly in cases of a change of use from offices to residential.

Q24 a) - Do you agree that we should aim to secure at least the same amount of affordable housing under the Infrastructure Levy, and as much on-site affordable provision, as at present?

Yes. But this implies that the IL will be the primary vehicle for delivering affordable housing. There are often concerns that affordable housing is pushed to the back of the queue for Section 106 contributions. In principle, therefore, emphasising affordable housing may be welcome, but it must be complemented by real public investment, especially in areas where the IL is unlikely to raise enough money. Without that complementary investment, the Levy will fail to deliver.

b) - Should affordable housing be secured as in-kind payment towards the Infrastructure Levy, or as a 'right to purchase' at discounted rates for local authorities?

Throughout the White Paper there is an evident bias in favour of home ownership. There are of course significant advantages to owning your own home, but it has never been an option open to everyone, nor will it be in the future. The planning system needs to work fairly for everyone, regardless of whether they wish to remain in their existing tenure or change to a different one, and it cannot therefore operate with a built-in assumption that one tenure is preferable to others.

c) - If an in-kind delivery approach is taken, should we mitigate against local authority overpayment risk?

Yes.

d) - If an in-kind delivery approach is taken, are there additional steps that would need to be taken to support affordable housing quality?

Yes.

Q25 - Should local authorities have fewer restrictions over how they spend the Infrastructure Levy?

Yes. However, the provision of infrastructure (including affordable housing) through the Levy should relate strongly to the development. We welcome the proposal for continuation of the 25% community share of the levy to be passed to parish councils. Parish councils have a good understanding of local infrastructure needs - especially those which have completed a Neighbourhood Plan and are therefore well placed to enhance community engagement around how these funds are utilised.

Q25 a) - If yes, should an affordable housing 'ring-fence' be developed?

Yes. It is hugely important that affordable housing be prioritised and delivered in the tenures and amounts that match the needs and aspirations of the local communities. There is a concern that without stringent guidance there is no guarantee that the IL will result in more affordable housing if, after major infrastructure, the local authority can use the IL for a range of other things (including a reduction in Council Tax).

Q26 - Do you have any views on the potential impact of the proposals raised in this consultation on people with protected characteristics as defined in section 149 of the Equality Act 2010?

No.