

## Briefing Note 27

20 August 2020

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### Planning for the Future - Will it really boost public engagement?

In his Foreword to the controversial Government White Paper<sup>1</sup> designed to completely overhaul England's Planning system. The Rt Hon Robert Jenrick MP asserts that his proposals will result in *'residents more engaged over what happens in their areas.'* Elsewhere there are words such as *'move the democracy forward in the planning process'*. Even more exciting is the commitment *'to support local authorities to radically rethink how they produce their Local Plans, and profoundly re-invent the ambition, depth and breadth with which they engage with communities'*.

So whatever the merits of changing the planning system, one thing is certain, the Minister sets public engagement as a standard by which to be judged.

This paper is an initial attempt to scope the emerging debate.

#### The Proposals (1) Local Plans

In an echo of the Conservative Party's 2009 research paper, *Open Source Planning*, the Government suggests intense frustration at the inordinate complexity and delays that afflict local planning authorities' process for agreeing local plans. A decade ago, the Coalition's response was to institute the regime of *Localism* – with **Neighbourhood Planning** introduced to encourage a bottom-up rather than top-down approach to place-shaping. Alongside this, Eric Pickles introduced a range of incentives that were meant to stimulate site allocations and much-needed housebuilding. This time around, Ministerial exasperation has prompted a more radical approach. Localism goes into reverse.

The proposals involves giving each Council 30 months<sup>2</sup> to switch to comprehensive zoning. It's not a new idea, and in some respects, is a throwback to the 1950s. Land will be designated as one of three categories - **Growth, Renewal or Protected**.

<sup>1</sup> "Planning for the Future" published

<sup>2</sup> 42 months if already with an approved local plan.

During this time, the Government hopes to see unprecedented quantity and quality of public engagement, assisted by the twin tenets of technology and transparency.

In its own words: (our underlines)

- ‘Local Plans should ... be focused on where they can add real value: allocating enough land for development in the right places, giving certainty about what can be developed on that land, ... and providing local communities a genuine opportunity to shape those decisions.’ (Par 2.5)
- ‘...communicate key information clearly and visually so that plans are accessible and easily understandable, and communities can engage meaningfully in the process of developing them;’ (Par 2.5)
- ‘...benefit from a radically and profoundly re-invented engagement with local communities so that more democracy takes place effectively at the plan-making stage’ (Par 2.5)
- ‘... we want to support local authorities to radically rethink how they produce their Local Plans, and profoundly re-invent the ambition, depth and breadth with which they engage with communities.’ (Par 2.46)
- ‘(The authority ...)’ publicises the plan for the public to comment on. Comments seeking change must explain how the plan should be changed and why. Again, this process would embody ‘best in class’ ways of ensuring public involvement. Responses will have a word count limit.’ (Par 2.48)

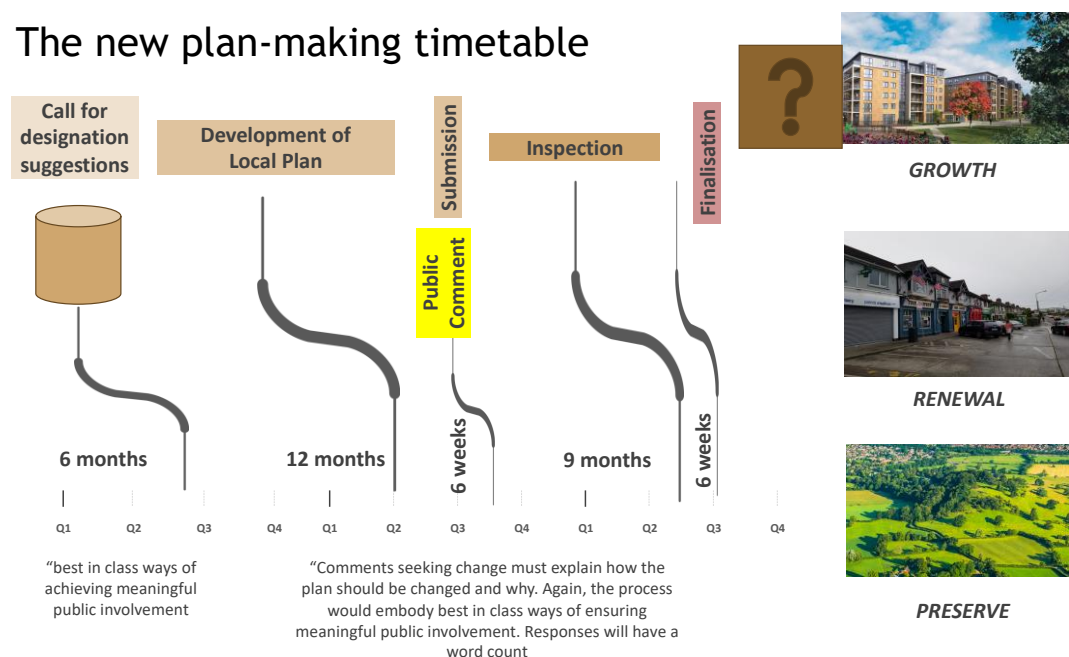
To support this, it wants to encourage innovation among software suppliers. It states:

‘These tools have the potential to transform how communities engage with Local Plans, opening up new ways for people to feed their views into the system, including through social networks and via mobile phones. Early pilots from local planning authorities using emerging digital civic engagement tools have shown increased public participation from a broader audience, with one PropTech SME reporting that 70% of their users are under the age of 45.’ (Par 2.45)

(The reference is to the digital platform: **Commonplace**)

It places much emphasis upon what is referred to as ‘*best-in-class*’ public involvement, specifically referring to it in the initial ‘call for sites’ phase and in the worryingly short interlude allowed for public comment. It is unclear at this stage whether this will be a formal consultation. The timescale looks like this:

## The new plan-making timetable



The process is designed for speed, and simplicity. There will be much support for reducing the enormous pile of documents churned out at present, though abolishing Environmental Impact Assessments will alarm many pressure groups.

There is a massive ambiguity over the 1,000+ approved Neighbourhood plans and the other 1,600 communities working towards them. The White Paper says they should be 'retained' but want '*to consider whether their content should become more focused to reflect our proposals for Local Plans.*' Does this mean that neighbourhood's views of what might be **Growth, Renewal or Protected** land should be carried forward? Or will it all be up for grabs once again in the 30-month stampede to designate in ways the Government, through its new planning guidance, and with its new top-down housing targets see fit?

Everyone remotely connected to planning will realise that this will be a bloody business in many areas where local communities resent developments being imposed upon them. Whether Ministers realise that this will slow down housebuilding rather than accelerate it in the short-term seems less certain.

## The Proposals (2) Development control

The central idea behind Ministers' thinking is that if the public can be persuaded to have its say at the beginning (ie when plans are made and adopted), its role should be minimised thereafter.

Once the plan is agreed, the idea is that Development Control ( i.e the processing of planning applications) becomes a straightforward application of rules. This means automatic approval in principle for rules-compliant developments in a **Growth** area. In **Renewal** areas, there will be a presumption in favour of development.

That development will seek to be 'beautiful'.<sup>3</sup> The Government is a convert to the theory that if new developments were better designed and 'beautiful', then much opposition will happily evaporate. A rather vague '*new expert body*' will supervise the development '*provably locally-popular design codes*'; this to be '*with community involvement.*' There will be a '*fast-track for beauty*' so that proposals that comply with these locally-specified rules are accelerated through the planning approval mechanism. Whether this means a significant opportunity for people to influence the design of schemes is unclear; at least one notable expert doubts it.

Much other tinkering with the system is dressed up as radical and deeply profound. Section 106 agreements and the Community Infrastructure Levy, both cordially hated by developers, seem destined for an overhaul. But these are details. The thrust of the White Paper is to facilitate the Prime Minister's mantra of *Build; Build; Build* and in removing perceived planning impediments to this goal.

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<sup>3</sup> This is based largely on the *Building Better, Building Beautiful Commission* whose Interim Report is called **Creating Space for Beauty** (published July 2020)

## Assessment

A positive interpretation of the proposals is to welcome an overdue attempt to modernise a system that is as clogged up and confused now as it was a decade ago. If neighbourhood planning is seen as a success, it may be because the public are well and truly engaged at the front-end of the process; maybe all that is being proposed in respect of Local Plans is the same change of emphasis and the front-loading of public engagement.

There is certainly much to improve in the way that spatial planning engages local people. Its culture of 'objection-handling' rather than genuine consultation pre-dates so many creative dialogues that have blossomed in recent years. The Government has clearly been persuaded that digital engagement is a game-changer, and that there is enormous scope for planning departments to use better visual and mapping techniques to enthuse people with the prospect of more beautiful buildings and places.

It also makes a good point that new technology will appeal to a younger generation that would probably not even consider existing methods of engagement.

*'Communities will be able to trust the planning system again as their voice will be heard from the beginning of the process and better use of digital technology will make it radically easier for people to understand what is being proposed in their neighbourhoods and provide new ways to feed their views into the reformed system.'* (Par 1.22)

Under the heading **Equalities Impact**, the White Paper expands upon this theme by making much of the current lack of inclusivity.

As the quote shows, there is a strong belief in Government that the current system is biased in favour of the articulate middle-class, and its mission is to widen the participation of groups unlikely to become involved.

One of the catchphrases is to move the process *'from documents to data'*. No-one is quite sure what this means, but it is possible that relying more on modern techniques would enable people to express their views in ways rarely used at present. A bonanza for digital engagement technology suppliers looks very likely.

*'...the combination of technical jargon and traditional models of community engagement discourages people from having their say on decisions. At the same time, it disproportionately encourages engagement from people from a narrow set of demographic groups – typically older, better off and white. We believe that the voices of those who may benefit most from new development are therefore often the quietest in the planning process (Par 6.6).*

On the other hand, there are many worrying signs.

The underlying assumption appears to be that more engagement, especially of young people, would result in far more support for development and particularly for housebuilding. The frequent reference to ‘democracy’ suggests that communities have their hopes and aspirations for new development thwarted by groups of luddite naysayers, whereas the truth is often very different. One particularly explicit paragraph gives the game away:

*‘Our reforms will democratise the planning process by putting a new emphasis on engagement at the plan-making stage. At the same time, we will streamline the opportunity for consultation at the planning application stage, because this adds delay to the process and allows a small minority of voices, some from the local area and often some not, to shape outcomes. (Par 1.16)*

All-out-war on NIMBY’s maybe?

Equally concerning is the tokenistic opportunity for the public to save its say on the draft plan. Note that the proposed sequence is that at the eighteen-month point of the plan-making process, two things happen simultaneously.

One is the submission of the Plan to the Secretary of State, and the other is to publish the plan so that people can comment. Note that the Government does not use the word ‘consultation’. It is possible that it hopes to avoid Courts insisting on the Gunning Principles. The first is often called *pre-determination* and, at first reading it certainly seems as if any Council that had already submitted its Plan would be reasonably accused of having already made up its mind. Look at the language – demanding to know why someone might want change – with an unknown ‘word count’ limit (which is also *best-in-class!!!*). Clearly a process designed to let people comment, but not necessarily influence anything.

Further erosion of current public engagement practice arises in the proposal to abolish the ‘*right to be heard*’ by an Inspector at the examination stage. The Inspector would apparently be allowed to invite a participant at his or her discretion.

## What may happen next

The White Paper is a twelve-week consultation. There are 26 questions. Some are rather interesting. For example, responses to Question 15 will be thought-provoking as it asks:

*‘What do you think about the design of new development that has happened recently in your area?’*

Question 3 is more typical. It reads:

*‘Our proposals will make it much easier to access plans and contribute your views to planning decisions. How would you like to find out about plans and planning proposals in the future?’*

The first sentence is an assertion – and one that many might not accept. The second is something of a *non-sequitur*. And this is from authors who talk about best-in-class engagement!

Expect the professionals to weigh-in heavily. Planning is complicated because it involves trade-offs between powerful interests. Political rhetoric does not, of itself, eliminate that complexity, and the planning profession has seen off many simplistic solutions over the years. Academics and development experts will surely highlight the lack of any real evidence that housebuilding is being held back by planning problems. There are apparently a million approved applications awaiting construction. There will also be deep scepticism about the design codes and the likelihood that they will lead to ‘soulless and formulaic development’<sup>4</sup>

The Town & Country Planning Association has already fired a broadside with a simple stark statement: *‘This White Paper will reduce democratic accountability.’* Its case will surely be endorsed by thousands of elected members who will not relish explaining to their constituents that someone has removed from them the right to take decisions in the perceived interest of their communities.

Formidable campaigners like Friends of the Earth, Greenpeace, the RSPB and the National Trust will challenge any watering down of environmental or biodiversity safeguards. Their political muscle is considerable, and is not confined to left-wing climate activists. Members of Parliament and Councillors who go to sleep every night on a pillow bearing the slogan *Take Back Control* will discover that relinquishing local influence over planning applications was not quite what they had in mind.

So there is probably everything to play for in the emerging debate. Chances are that the fundamental move towards comprehensive zoning will proceed, in some form or another. This will trigger consultations all over England as various proposals are considered. If neighbourhood plans are to be re-opened, there will be a hue and cry, but those responsible for them will not boycott the process. Instead we will have record levels of participation.

## The Institute View

- Planning is one of the most obvious activities where public consultation clearly matters to ordinary people. Along with hospital reconfiguration, aircraft noise and specific infrastructure projects (eg HS2), planning decisions galvanise communities like no other issues. Governments interfere with their perceived right to object at their peril.
- The White Paper will lead to several different debates - about planning policy, about housing, about industrial development, about aesthetics; about transport and about democracy. The Institute is neutral on many of these but believes in meaningful consultation on matters that impact upon people’s lives. We will focus on the extent to which the Government’s claims for public engagement can be justified.
- The Institute believes that many improvements are needed in the way that Councils currently consult. The pandemic has added to the problem. It also believes that digital engagement has a major role to play.
- It will contribute to the debate on ‘best-in-class’ practice, and its Policy Council will work on developing standards and codes of practice to assist local authorities and the planning profession engage better, whatever the outcome of the White Paper.

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<sup>4</sup> Am indebted to Institute Associate, Dave Chetwyn for this and other informed insights on this paper.



## Relevance

This Note is of relevance to all those who are involved with spatial planning in England. Although not directly of concern to planners and Councils in Scotland, Wales and N Ireland, the issues being considered in England will also be relevant to the debates in these jurisdictions. Professional planners, developers, urban designers, transport and highways specialists are also directly affected and will probably have opportunities to respond to the consultation through their professional associations.

Local government is seriously impacted by these proposals. The Note is therefore relevant to elected members and local government officers involved in planning matters.

Members of the general public sometimes become directly involved in local planning issues and may be affected by proposals in the White Paper as traditional opportunities to influence planning applications will be affected. They would therefore find this Briefing Note of interest.

## Further insights

- This Briefing was written by Rhion Jones LL.B, Founder Director of the Institute with assistance from Institute colleagues, notably, Dave Chetwyn of Urban Vision Enterprise.
- The Institute is organising a virtual (Zoom) Roundtable to consider these issues on 16<sup>th</sup> September. Contact [karenf@consultationinstitute.org](mailto:karenf@consultationinstitute.org) for details.
- The Institute will be responding to the consultation and welcomes views from members and supporters. Please send your comments to [stephenH@consultationinstitute.org](mailto:stephenH@consultationinstitute.org)
- One of the criticisms of the White Paper is that it inadequately addresses climate change issues, and provides little or no help to hard-pressed Councils seeking to rebuild damaged post-pandemic economies along greener principles. The Institute expects to see serious demand for consultation and engagement with anxious communities on this subject and is offering practical Advice & Guidance, drawing upon extensive recent experience and research on *best practice* for a **Green recovery**. Please contact [RebeccaW@consultationinstitute.org](mailto:RebeccaW@consultationinstitute.org) for details.
- Many of the issues covered in the Government White Paper have a long and tortuous history, with public participation a long contentious subject. A whole chapter of the 2018 book by Rhion Jones and Elizabeth Gammell – *The Politics of Consultation*. recounts various attempts by successive Governments to reform planning. See <https://www.consultationinstitute.org/publications/>
- One of the aspects that most irritates Ministers is the application of the Law of consultation, and the many occasions Governments have been subject to judicial reviews on planning matters. Public engagement professionals need to be fully aware of the complexities, and the Institute can now offer a comprehensive online training course – Law of Consultation online . See <https://www.consultationinstitute.org/courses/law-of-consultation/> for details

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