

CATERHAM VALLEY PARISH COUNCIL
RESPONSE TO THE GOVERNMENT PLANNING WHITE PAPER
OCTOBER 2020

Caterham Valley Parish Council has many concerns regarding the Planning White Paper.

The Prime Minister has said “thanks to our planning system we have nowhere near enough homes in the right places. People cannot afford to move to where their talents can be matched with opportunity. Businesses cannot afford to grow and create jobs. The whole thing is beginning to crumble and the time has come to do what many for too long have lacked the courage to do – tear it down and start again’.

It is true that not enough houses of the right type are being built, but to say that the current planning system is responsible is not proven. The 2018 Letwin Report identified the main bottleneck in housing supply to be the market absorption rate: the rate at which newly constructed homes can be sold on the local market without materially affecting the existing market price. Developers have strategic land banks and drip feed the supply of new homes. It is unclear how the proposed changes will change that practice. According to the LGA more than one million homes that have been granted planning permission in the last decade have not been built by developers, and 90% of planning applications are approved. This is all in spite of planning staffing levels being slashed by 30%.

We will never have enough homes in the right places. People often cannot afford to move to where their talents can be matched with opportunity. It would be better for the Government to fix economic inequalities across the country rather than continue to build unaffordable housing in already densely populated areas. This sits at the root cause of the availability and affordability of housing.

On 8th October our MP, Claire Coutinho, told the House of Commons that she was seriously worried ‘about the centrally designed housing numbers which do not take into account a local area’s capacity to deliver’ and that ‘it is mission critical that we address the very legitimate concerns of local residents’. She wishes to see an ‘affordable target of 40%, with homes that are affordable for local people, and earmarked for local people and key workers’. She continued by saying ‘we must also ensure that they meet local design aspirations, to create communities where families can thrive, and that they come with the required infrastructure and provisions to protect and enhance our natural environment’.

How do the proposals in the White Paper meet these aspirations? The Paper says the current process is overly bureaucratic, focusing on documents not data. Surely, this can be streamlined without ripping up the current system. Perhaps the current system should be made to work more effectively rather than ‘to tear it all down and start again’.

HOUSING REQUIREMENTS AND CONSTRAINTS

The three zone model as a broad brush system seems completely inadequate, given that it ignores the huge amount of land without protective designations but which is unsuitable for development.

Proposal 4 states that the Government is to introduce a standard method for setting – at a national level - a “binding” housing requirement figure for each Local Planning Authority. The standard method will be based on how many existing homes are in an area, the projected rise in households, and changes in affordability.

The reimposition of top-down housing targets on local authorities, a decade after Eric Pickles removed them, deriding them as “soviet-style tractor targets”, is untenable.

Numbers will take into account the presence of constraints on growth, such as Green Belt, but the White Paper does not say how this will be done. No details are given on how this new Standard Method will work and how the constraints contained in Para 4 of the “Changes to the current planning system” document will be factored in. Tandridge District Council has 94% Green Belt land. Protection of the Green Belt in the South East is a problem. Under these proposals with its top-down targets, the responsibility for setting housing numbers that will demand Green Belt release passes to the Government which has no local knowledge. The Government needs to be transparent in explaining how it derives or intends to derive the specific numbers in each area.

Further, land constraints do not respect natural boundaries, and there may be a need to consider leaving “white” or “clear” land undesignated in between these areas. For example, land that abuts a conservation area may not fall neatly into one of the three tiers given the impact that its development may have on the conservation area. Wildlife trusts are proposing that wildlife belts should be built into all zones to protect our urban wildlife corridors, applicable in towns, cities, suburbs and the countryside. The UK has failed to reach 17 out of 20 UN bio diversity targets agreed 10 years ago, so it is vital that nature recovery areas are built into any plan.

Central management of housing numbers is a concern because there needs to be recognition of local factors such as the percentage of Green Belt, local terrain, flooding issues and current density and infrastructure and the actual need for a particular type of housing in the area.

The proposed system is also inflexible and does not allow for changes if circumstances change, for example major changes to the local job market/ farming requirements or changes to the natural environment. All these things are relevant particularly in the light of Brexit and Coronavirus.

One of the issues constraining supply and inflating housing prices, which leads to market distortion, is the length of time it takes from planning approval to a development being completed. Developers currently have three years from the approval of a planning application to begin work on a site and there is no time limit for finishing a development. The problem is there is sometimes no rush once they start and in consequence it can take a very long time for a development to be completed. This is an issue which this White Paper should address.

DESIGN STANDARDS

Giving local areas the chance to be involved on the design guides for the different zones is necessary and hopefully will give people confidence on what will be built. But these design standards are valid for many years, and comparatively little time (30 months) has been given for local Councils to develop them with public consultation, especially given that many Councils probably do not currently have the expertise regarding design or sustainability. How does this reconcile with gradual densification?

The community and Councils developing these design guides have to second guess what developers might want to build years down the line, with no opportunity to having a final say on plans that developers put forward after the design guides have been put in place.

How does the promise of 'beautiful design' and 'tree lined streets' sit in light of the governments permitted development policy, a policy that has been accused of generating 'slums of the future'? Who judges each application to see if it is 'beautiful' enough and meets all the criteria of the guide? There must be stringent oversight.

Conversely an overly detailed design guide could limit the ability of developers to build in novel or innovative ways. Interestingly, apparently the New York City zonal plan runs to 4,300 pages.

In August this year, the Government brought into force measures that allow property owners to press ahead with upward extensions of one or two-storeys on residential, mixed-use and commercial blocks. While limitations on height and density are possible, in reality however these are difficult to apply given the requirement to build.

The 30-month limit seems to have been decided upon on an arbitrary basis. How will it be possible to ensure there has been a proper assessment of all necessary information to inform the Design Guide? A local example is the ground water assessment for a development at Church Walk in Caterham. Because of its complicated nature and the fact that the Environment Agency's (EA) mapping does not show all the watercourse in Caterham Valley, this assessment has already taken longer than the 30 months limit proposed in the White Paper for the entire guide.

USE OF ALGORITHM

Just because data become out of date does not mean that they should be automatically discounted if they are the only data available.

A major concern is that the Government's new housing targets will be determined by an algorithm. Last summer's use of a flawed algorithm by the Department for Education to determine A level grades was a complete fiasco.

Because of this and other issues that both the Home Office and Police have had with the use of algorithms there is now, not unreasonably, widespread concern at this Government's proposed use of another algorithm to determine housing numbers.

Instead of using a potential unreliable algorithm which takes no account of local conditions and constraints, local authorities should be allowed to use their judgment to determine a suitable housing number for their area. House building data used by an algorithm would be particularly misleading in Caterham since a very large number of houses have been built on redundant sites in the area thereby skewing the data.

FIRST HOMES / AFFORDABLE HOMES

The current system is by no means perfect, but more detail is needed on the proposed change which may well lead to giving more money to already wealthy areas. The proposed First Homes Levy would subsidise home ownership, but may not be the most efficient way to address affordable need.

Under the proposals, First Homes are expected to take significant priority over other forms of affordable housing. This is likely to have a devastating effect on the numbers of new shared ownership homes which have lower deposits and lower income requirements than First Homes. By restricting the supply of shared ownership schemes the government is exacerbating the lack of affordable housing. Similarly, there is no mention of delivering housing to rent, despite it being a significant recent contributor to UK housing needs.

The White Paper states that it intends 'the new levy to raise more revenue than under the current system of developer contributions, and deliver 'at least as much affordable housing, and on-site affordable housing, as at present'. One of the major barriers to affordable housing in our area is the use and abuse of viability assessments by developers which allow them to reduce the amount of social housing they have to build under S106 agreements. The White Paper misses the opportunity to address this issue by allowing the local authority to hold developers to account, ensuring that they are not wriggling through loopholes to deliberately avoid social housing or infrastructure provision in order to bolster their profit margins. This has already led to 30,000 of such homes going undelivered over the last five years, according to the Local Government Association (LGA).

Currently developers often state that the provision of affordable housing makes the development unviable. Stricter rules need to be applied to ensure affordable housing is provided with all development with the criteria prescribed.

As well as shared ownership, we also need small family homes, with the rental sector being of equal importance given not all young people want to own a home. Long term rental is an important area to build for as well.

The White Paper suggests that developments with 40 to 50 houses or fewer should be exempt from the affordable housing levy. This is ridiculous as most building in towns and suburbia involves smaller developments. Even where the development potentially falls within the criteria, all that developers would have to do is to divide the land up into smaller parcels to avoid the Levy, a practice which is already endemic.

In response to the White Paper the President of RIBA, Alan Jones, has said 'there's every chance they could also lead to the creation of the next generation of slum housing. The housing crisis isn't just about numbers, and deregulation won't solve it. If the government is serious about addressing the dominant position of large house builders and the lack of quality social housing, the Secretary of State needs to make changes to the tax system, look at why land approved for development lies untouched for years, and give local authorities power and resource to promote and safeguard quality.' Caterham Valley Parish Council agrees with this statement.

HOUSING TYPES

The White Paper does nothing to address the need of accessible homes for an ageing population.

Another significant problem in Tandridge is that developers are building a large number of flats and smaller dwelling units, ignoring the need for larger family homes. It appears that the majority of planning applications in Tandridge are approved but this does not do anything to address the issues of affordability and availability of the sort of housing which the less wealthy sections of our community need.

In the financial year to April 2019 only 6,287 new social rent homes were delivered. Some 23,740 were sold or demolished in the same period. With the current estimate of over a million households on the social housing waiting list, will this cast doubt on the ability of many of these people to secure affordable homes?

S106 and COMMUNITY INFRASTRUCTURE LEVY (CIL)

A nationally-set levy on development value is proposed to replace S106 and CIL which the Government says will bring in at least as much or more in the way of developer contributions as the existing system. The levy will be paid at the point of occupation, leaving Councils to pay for and deliver any infrastructure needed up front. Councils will be allowed to borrow against future levy receipts to fund this. This is fine when interest rates are low as they are now but what will happen when they go up?

In the event of developer insolvency, how is the local authority supposed to recoup spending on infrastructure?

The White Paper states that 'there is also a value based minimum threshold below which the levy is not charged to prevent low viability development becoming unviable. Where the value is above the threshold, the levy is only charged on the value above the threshold'. This seems to benefit the developer rather than the area where the development will be built. The concern will also be the piecemeal development of sites which will enable developers to avoid paying the levy as currently happens with the provision of affordable housing as detailed above.

We also have concerns regarding how land be priced to ensure that values can be properly established and also the potential impact on the willingness of land owners to bring land forward for development.

Replacing the CIL and S106 payments with centrally imposed housing targets and a national levy is likely to result in less money for affordable housing and critical infrastructure.

How has the government modeled how the new IL will work and how much will it contribute? It would be useful to see why the government believes that a new national levy will yield more resources than the current arrangement.

One positive in the proposals is that the current position where CIL is not payable on Permitted Development will be rectified and the Parish Council welcome this provision.

INFRASTRUCTURE

The White Paper says a new, nationally determined, binding housing requirement that LPAs would 'have to deliver through their local plans' would be created. It says the requirement would be focused on areas where affordability pressure is highest to stop land supply being a barrier to enough homes being built. This is a developer's charter to build with little consideration for the capacity of the infrastructure to support the development. There is no detail on how this will consider land constraints.

The proposed changes to the planning contributions do not specify the mechanism for delivering infrastructure (schools, GP surgeries, drainage systems, road upgrades) in the event that the value of the development falls below the proposed threshold for the Infrastructure Levy, so how are local authorities expected to deliver in those circumstances?

Currently, there has been a failure on the part of Tandridge District Council to ensure that development is accompanied by an upgrading of the local infrastructure. In fact, instead of using the Community Infrastructure Levy to improve community services – the key word is Infrastructure - the Council has subsumed the CIL into general revenue and has not used it for infrastructure improvements. As a result, many areas like Caterham have had large new developments foisted on them with little benefit from the CIL.

As a result of the increased strain on existing infrastructure, rainstorms which are becoming more frequent with climate change overwhelm drainage systems again and again, leading to repeated flooding of local businesses and people's homes in Caterham, in other parts of Tandridge and across the border in the Borough of Croydon.

The infrastructure proposal also does not address the infrastructure deficit in urban areas from the windfall development that has already happened.

There is no detail on sustainable locations and infrastructure.

Developers use consultants to provide infrastructure viability assessments which are often very specific in their remit, sometimes limiting the scope of the response. We have had a situation recently where the developer provided one set of data to substantiate their assessment of the flood risk in the area. Subsequent data provided by consultants through the local Parish Councils and community group elicited a completely different result. The solution is clear ownership of assessing flood risk. Currently our LPA makes the decision with input from Surrey County Council and the EA, but there is no clear expert owner which has caused problems on multiple locations in both the Caterham Hill and Valley. The EA should have full accountability for assessing this risk and have the appropriate resources to facilitate that assessment.

LOCAL PLANS

The time taken to develop Local Plans is necessarily predicated on the data required to ensure that they are clear and robust. It is an iterative process.

The White Paper assumes a high degree of administrative competency and experience. How are the resources and organisation for the new Local Plans expected to be provided? The design codes need to address all those issues that make a place sustainable where people want to live, such as layout, density, construction quality and mixtures of uses and tenure.

The Government has proposed that there will, as now, be an examination into any proposed Local Plan. However, it is noteworthy that the White Paper refers to potential options to remove the public examination process - instead, requiring LPAs to undertake a process of self-assessment against set criteria and guidance - and the removal of the automatic 'right to be heard'.

Clearly our local community could end up having less of a say than it does now on individual planning applications, particularly if LPAs classify areas as 'Growth' or 'Renewal' instead of 'Protected' in order to meet housing targets and focus on increasing economic growth.

The examination into the Local Plan will have to have the foresight to think of any issues at the design guide stage as there will be so little option for comment once a planning application is submitted.

The Paper proposes sanctions if Local Plans are not delivered within a strict time constraint. How would the sanctions work? If they are financial in nature, they would only serve to further penalise cash-strapped LPAs who have already been hit hard by cuts to budgets and the financial consequences of Covid-19. While it is an admirable ambition, is it realistic to suggest that larger areas would be able to complete their Local Plan in 30 months? Complicated or detailed Local Plans could require much longer.

LOCALISM AND DEMOCRATIC OVERSIGHT

The reforms restrict planning authorities' ability to set local planning policies in line with the needs of their area and community aspirations, undermining the plan led system and disempowering councils and communities.

Most of this White Paper flies in the face of the 2011 Localism Act. Is this the end of Localism? The reality of this simpler, faster and more predictable system is a tick box system with no local input which will remove accountability of local authorities and elected representatives.

The White Paper says that areas zoned for 'growth' will accommodate 'substantial development' and will benefit from outline permission, but developers will still need to secure reserved matters. Areas zoned for 'renewal' will benefit from a statutory 'presumption in favour' of development. Zoning imposed by central Government without the input of the local residents who must live with decisions will, in many cases, mean gross overdevelopment of already heavily developed areas, with necessary infrastructure only being included as an afterthought, if at all.

The White Paper states 'although the government wants to place new emphasis on community engagement at the plan-making stage, it intends to "streamline" the opportunity for consultation at the planning application stage'. This means that if the developer does not submit an application that residents support but which falls within the Local Plan, they have absolutely no recourse to object to the application or ask for amendments. Lessening the ability of the community to shape and influence development in the local area is unacceptable.

It is a fundamental principle of local democracy that residents can oppose / comment on any planning applications which they consider detrimental to the interests of their community and that their views are taken into account. At present, District and Parish Councillors, and residents, may comment on housing / development applications and seek their referral to their local Council's planning committee for consideration. This gives them a chance to make representations directly to the decision-makers.

While currently soundly based local residents and Councillor objections to planning applications, including those based upon the Council's own policies, are frankly often ignored, 'Planning for The Future' is a blatant

attack on local democracy and will seriously limit the right of District and Parish Councils and local residents, to provide a reasoned opposition to developers' proposals.

Delegation of detailed planning decisions to planning officers, rather than a democratically elected planning committee, fails to recognise the role that public, democratic scrutiny has in ensuring decisions are fair and transparent, with any potential impact on the community being fully considered.

The White Paper says 'as part of the implementation of planning reforms, we want to see LPAs place more emphasis on the enforcement of planning standards and decisions'. This implies that the Local Authority, in our case Tandridge, will be more say in how planning policies and decisions are made and enforced. Currently the Government and County are constantly overruling our Local Authority's planning policies, flying in the face of this aspiration.

There have been a number of inappropriate applications which have been refused by Tandridge District Council's Planning Officers and Planning Committee but which were subsequently approved on appeal by an Appeal's Officer based in Bristol who does not know the area or its constraints.

The calculation of housing requirement is based on historic activity. This does not consider local constraints and will result in an explosion of house building in areas where growth exceeds that of other parts of the country. With Caterham being a 'Category 1' settlement, this causes concern that this will mean our area will continue to be the target of housing growth regardless of whether we have the capacity and infrastructure in place.

There is a suggestion that planning decisions are discretionary rather than rules based. There is currently flexibility within the framework to assess the impact of the development at a micro location. This would be removed.

Given the potential for financial penalties, will the LPA have more concern about being fined for not approving an application rather than have consideration that the application is not appropriate for the site?

Worst of all under Changes to the Planning System, it says that "No cap will be applied to the housing need figure, regardless of LPAs' policies." Again, how does this fit with the Governments stated aspiration of local authorities being more proactive?

The Town and Country Planning Association has said 'we are deeply concerned that the proposals will undermine local democracy, marginalise local Councils and fail to achieve the kind of high quality places that the government is committed to delivering'. CPRE has criticised the 'pitiful' aims and has called for 'robust legal guarantees'.

NEIGHBOURHOOD PLAN

The Localism Bill 2011 set Caterham on the path of a Neighbourhood Plan. The Caterham, Chaldon and Whyteleafe Neighbourhood Plan passed through Planning Policy at Tandridge District Council in September this year with the expectation that it would go to referendum and be 'made' in May 2021. Where do Neighbourhood plans sit in the planning system? How much weight will be given to the policies in

Neighbourhood Plans when the focus seems to be on housing targets rather than the capacity of the local area?

The White Paper is considering whether the content of Neighbourhood Plans should become 'more focused' to reflect the Government's proposals to simplify Local Plans. It is unclear how Neighbourhood Plans will fit into the proposed new zonal planning system and there is no clarity about the scope and power of Neighbourhood Plans. It would appear that the proposals in the White Paper reduce the role of Neighbourhood Plans to local design guides. Much more clarity is required.

ZONING

The White Paper says that 'areas zoned for growth will accommodate 'substantial development' and will benefit from outline permission, but developers will still need to secure reserved matters'.

Whilst there are many words paying tribute to Neighbourhood Plans, beautiful designs and buildings and green space there is precious little detail. Neighbourhood Plans look after the residents who already live in the area and seek to develop their areas sympathetically, valuing the current character and local community. These should have priority within any new zoning structure. Balancing infrastructure and green environment such as community buildings/ local green spaces/ parks/ wildlife tracts and corridors in the different zones does not seem to be covered in any detail. These precious areas need to be close at hand to people in all the zones, i.e. walkable for all ages. We can currently see how important access to open space is, especially for those living in high density apartments. Areas prone to flooding, or older areas with inadequate sewage system for higher density housing, need special recognition when zoning is considered.

There needs to be a way of reviewing zoning bands or design guides in the future so that they remain relevant. Employment in an area can change if a large business pulls out, or indeed comes into an area. Environmental changes may occur.

CARBON NEUTRALITY

There is almost nothing mentioned regarding the relationship between major infrastructure and land use planning, nor on the drive to a zero-carbon economy. The much-needed new housing needs to be built in the right places with the right public transport and to standards that mean the housing is zero-carbon from the start rather than requiring expensive retrofitting in just a few years.

It is disappointing that the proposals do not seek to make the planning system the principal strand of England's striving to be a modern zero carbon economy as swiftly as possible.

So where will carbon neutrality come into the plan? Does it have to be built into local design guides? How do new initiatives on environment, design etc get built into the zoning system?

ENVIRONMENTAL IMPACT

The effort to speed up applications risks watering down or removing altogether the requirement for environmental impact and similar assessments.

The importance of nature to our health and wellbeing is well-known. Lockdown as been difficult for many and the facility of open space has been beneficial to many. However, access to green space is not available. Although the White Paper says proposals will result in homes with green spaces and new parks, there is a lack of detail on how this will be delivered. As so many developments are now built without adequate amenity space, all new applications need to ensure that there is available space, particular in a Covid world.

The importance of trees to the environment is something that cannot be overstated. A healthy 100-foot-tall tree has about 200,000 leaves. A tree of this size can take 50,000 litres of water from the soil and release it into the air again, as oxygen and water vapor, in a single growing season. One of the first things a developer does when assessing a site is consider how many trees can be removed to allow more dwelling units to be crammed onto the site. In the case of the approved development of a local field a large number of mature trees were cut down, leaving the site looking like a waste land.

The White Paper also does not address climate adaptation and the need to secure flood resilience as detailed above.

With the Government's lack of consideration for the environment, we have little confidence that even the paltry proposals in the White Paper which go towards protecting the environment will be enforced.

INCREASE IN DIGITISATION

This is broadly to be welcomed if it improves communication and information sharing throughout the community as well as between planners and developers. There will still need to be more traditional methods of communication available for residents though as not everyone in an area will have the ability to access in this way.

However, it poses some practical and legal issues. Firstly, are all LPAs going to be obliged to use the same digital platforms and databases? How will the Government ensure that consultation via the proposed digital tools will comply with common law principles, especially following the recent Stephenson case?

Moving from a document to a data-driven process will also engage parallel compliance regimes such as the data protection rules and the Environmental Information Regulations. Non-compliance with disclosure requirements such as those in the 1972 Local Government Act may lead to a permission being quashed.

DUTY TO COOPERATE

Whilst the proposed changes to the Duty to Cooperate seek to address concerns about funding for essential infrastructure, it is largely silent on effective mechanisms for achieving accurate assessments regarding infrastructure, housing or flood risk.

SUSTAINABILITY APPRAISALS

The purpose of a sustainability appraisal is 'to appraise the social, environmental and economic effects of a plan from the outset. In doing so it will help ensure that decisions are made that contribute to achieving sustainable development' and says 'The sustainability appraisal is integral to the plan making process.' 'It should also help demonstrate that the plan is the most appropriate given the reasonable alternatives.'

The White Paper says sustainability appraisals would be abolished and would be replaced with a 'simplified process' for assessing the impact of plans to satisfy the requirements of UK law and international law and treaties.

A great deal more information is necessary to show this will achieve the same result.

CONCLUSION

For all the reasons stated above, Caterham Valley Parish Council does not believe the current iteration of the Planning White Paper accurately assesses the necessary changes to the Planning regime needed to achieve the Governments stated aims.

Further it does not contain sufficient detail as to how the stated aims will be achieved by the proposal, nor sufficient information regarding the basis for the assumptions made therein.

We do not consider this White Paper fit for purpose.