



Planning for the Future

A response from Midland Heart to the MHCLG
Planning White Paper

October 2020



Topline

We welcome the White Paper which offers a much-needed reassessment of the planning system. Giving permission in principle in new 'Growth areas' and centralising responsibility for allocating housing need requirements could help accelerate housing delivery considerably. At the same time, the new Infrastructure Levy offers a welcome injection of transparency into a notoriously opaque aspect of the planning system. We would, however, like to see more ambition for this levy to support the delivery of the full range of affordable homes across different tenures.

Recommendations

- The Infrastructure Levy should be renamed 'The Infrastructure and Affordable Homes Levy' with a strong emphasis on working with housing associations and measures to deliver the right mix of different affordable tenures
- Sites with 100% affordable homes should be exempt from the levy
- Local authorities must not be able to use the levy for other purposes at a time of acute housing shortage
- The Duty to Cooperate should not be removed but strengthened to help local authorities with severe constraints access suitable land
- Greater detail is needed on how rigorous community engagement and environmental appraisal will be conducted from the start of the plan making process, especially regarding zoning which will likely be most contentious
- The 'fast-track for beauty' must be clearly based on the objectives set out in the design codes only, and not open to subjective interpretations

About Midland Heart

We are a leading housing organisation, delivering homes and services across the Midlands that enable people to live independently. We own and manage 33,000 homes and are dedicated to providing decent, affordable homes combined with excellent services to over 70,000 customers.

We have an ambitious development programme to deliver 3,000 good quality homes over five years, and we have already made a strong start. Last year we built 570 homes, we also have 1,000 homes currently on site and a pipeline of a further 1,000 homes. We are strongly committed to increasing the supply of genuinely affordable homes. Over two thirds of the homes we currently have on site are for social or affordable rent. The remainder are for shared ownership, which plays a key role in widening access to homeownership for those who would otherwise be excluded.

We are committed to brownfield first and have just finished a £58 million project to transform three brownfield sites in Leicester into 400 good quality homes. We are now embarking on similar projects in Dudley and Nuneaton which will deliver over 200 more homes on brownfield sites. We are also working with peers and the West Midlands Combined Authority to investigate the potential of a joint delivery vehicle

to spread risk and enable the delivery of some of the most challenging brownfield sites.

As an organisation with a strong history of redeveloping brownfield sites across the Midlands, we also understand the challenges and limitations. To achieve the Government's target of building more than 300,000 new homes a year, we believe it will be necessary to look beyond brownfield.

We understand the limitations of the current planning process too. Applications for large or complex sites are supposed to be determined within 13 weeks. However, in our experience, it is not unusual for such applications to take significantly longer, even up to a year or more in some cases. This has a considerable impact on our development programme. It increases our costs as consultants, architects and engineers all have to invest more time. It also delays us from securing any income through rent or sales. The uncertainty caused by the inefficient planning system has significant economic implications.

Pillar One – Planning for development

Overview

We strongly welcome the Government's ambition to simplify the planning process with shorter, more precise, local plans and a clear zoning system. We are particularly encouraged by plans to automatically give new developments in 'Growth areas' permission in principle, and for central Government to determine the correct balance between delivering homes and protecting Green Belt. Along with a housing need formula that is responsive to demand across all the regions, these policies could be really powerful for accelerating housing delivery where it is needed most.

Government must take a robust line on Green Belt and strengthen, rather than removing, the Duty to Cooperate so that severely constrained authorities can still protect their most precious green spaces whilst delivering growth. We are concerned that there is not yet sufficient detail about how community engagement and environmental appraisal will work under the new system. It is vital we get these aspects right from the outset so we do not open ourselves up to protracted and expensive legal challenges at a later date.

Detailed answers

1. What three words do you associate most with the planning system in England?

Obstructive, complicated, inconsistent

2. Do you get involved in planning decisions in your local area?

Yes. Midland Heart currently has over 1,000 new homes on site across more than 30 locations and a further 1,000 homes in the pipeline. Last year we spent almost £90m on building new homes. We have extensive experience of the planning process across multiple local authorities.

3. 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 future?

We agree with the Government's direction of travel in moving towards digital and interactive solutions rather than traditional methods such as notices on lamp posts.

4. What are your top three priorities for planning in your local area?

- Increasing the availability for land appropriate for good quality and affordable homes
- Improving the speed and quality of planning decisions
- Increasing diversity of tenure on major sites

5. Do you agree that local plans should be simplified in line with our proposals

Yes. We support the zonal approach and believe that offering permission in principle from the outset will remove one of the major barriers to delivery, making it easier for us to bring forward more affordable homes.

The early stages of the development of the local plan, however, will be critical to the success of this. Good quality community engagement and environmental impact assessments will be critical for avoiding protracted legal or political challenges later on in the process. We would like to see more detail on how effective consultation will take place in the early stages of plan making. Communities must be closely involved with decision making over which areas are designated to which zones as well as to the intended design of new developments.

We welcome the policy of centralising decisions over the extent to which Green Belt can be used to mitigate against housing delivery. Currently many local authorities fail to deliver their housing numbers on the basis that they are constrained by Green Belt. Government must take a transparent but more robust approach to allocating housing need under the new regime.

6. Do you agree with our proposals for streamlining the development management content of local plans and setting out general development management policies nationally?

Yes. We strongly welcome the Government's plan to simplify and shorten local plans. In addition to the need to avoid duplication, we would also emphasise the need to avoid adopting local plan policies which directly contradict other local authority

policies such as adoption standards for new estates. National policy must ensure new local design codes and guides are completely clear and unambiguous and clarify to what extent local design codes can depart from national standards.

7. (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 on environmental impact?

Yes, however we are concerned that there is a lack of detail on how the simplified new process will ensure appropriate legal compliance. We must avoid ambiguity which could enable complicated and obstructive legal challenges at a later stage.

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

We do not agree with removing the Duty to Cooperate and believe it should instead play a significant role in the new regime. With Government taking responsibility for housing need allocations, a stronger case could be made for local authorities to work across boundaries to address shortages of land. We would also welcome an enhanced role for combined authorities in overseeing the distribution of housing requirements.

8. (a) Do you agree that a standard method for establishing housing requirements should be introduced?

Yes and we strongly support centralising the decision making so that more objective assessments can be made of the need to release Green Belt.

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

Yes. It is important to understand the regional spread of housing demand. The latest proposals in *Changes to the current planning system* offer the best formula yet for the Midlands. Our region has previously suffered from unambitious housing need metrics, which failed to fully account for future demand created by economic growth through projects such as HS2. The 'extent of existing urban areas' metric will help to counter balance against excessive weighting towards the South East and London, but does compound the issues with Green Belt. Greater cooperation across boundaries could help to relieve pressure on those areas with the highest concentrations of Green Belt.

9. (a) Do you agree there should be automatic outline planning permission for areas for substantial development (Growth areas) with faster routes for detailed consent?

Yes. We fully support this proposal and believe it could go a long way towards accelerating delivery, notwithstanding our concerns about the potential for legal challenges if community engagement and environmental appraisal in the early stages is not robust enough.

(b) Do you agree with our proposals above for the consent arrangements for renewal and protected areas?

Yes. It might be helpful to give examples of the exceptional circumstances in which a full planning application would still be required in 'Growth' and 'Renewal' areas to avoid unwittingly creating a loophole through which development can be unreasonably held back.

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

Yes and this could play an important part in addressing the challenge of delivering new homes whilst protecting Green Belt. Development Corporations overseen by combined authorities could play a major role, especially if a more flexible definition of new settlements is adopted which embraces major regeneration programmes in brownfield areas.

10. Do you agree with our proposals to make decision making faster and more certain?

Yes. These reforms are urgently needed to improve the user experience of the planning system. Our only concern is about small local planning departments, many of which have faced significant cut backs in recent years, having the skills and resources to implement these innovative proposals. Greater clarity is needed on how these reforms will be funded.

11. Do you agree with our proposals for accessible web-based local plans?

Yes.

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

Our colleagues within local authority planning departments have expressed concern about whether this time frame is workable, especially given the extensive community engagement which is expected to take place in the early stages. As a developing housing association, our principal concern is that local authorities are given sufficient time to produce a robust plan that we can rely on for long term planning.

13. (a) Do you agree that Neighbourhood Plans should be retained in the reformed planning system?

If they are retained, Government will need to explain what their role is within the new regime, given that the proposal for local design codes and guides will replicate many of the functions of the Neighbourhood Plan.

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

Avoiding duplication with other areas of the new planning policy will be key.

14. Do you think there should be stronger emphasis on the build out of developments? What further measures would you support?

Build out rates are critical and we support the continued inclusion of the housing delivery test as a robust mechanism to ensure that new sites are developed as planned. However, we are more concerned about the ability of local authorities to designate enough areas as 'Growth areas' given the challenges around Green Belt and cooperation discussed above.

Pillar Two – Planning for beautiful and sustainable places

Overview

We welcome the Government's ambition to create more beautiful new developments and to make community engagement more accessible. Local authority planning departments must be given the resources to recruit and retain the talented officers needed to deliver these changes. Above all the new design codes must be clear and concise and avoid duplication and contradiction with other policy documents. This will help ensure more objective decision making, including at planning committees.

Detailed answers

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

Our experience is that design policies within local plans are applied inconsistently. We have had developments turned down that meet all the requirements of the local plan but nevertheless did not pass the scrutiny of local councillors. Greater clarity and objectivity around design expectations is urgently needed.

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

We are committed to delivering a 75-80% reduction in CO2 emissions in our new homes by 2025 in line with the Government's Future Homes Standard. We believe this will add up to £15,000 to the cost of each new home which means low

carbon homes will be less affordable unless they are cross subsidised. Government should consider a low carbon grant incentive to enable housing providers to build to the highest possible energy efficiency standards whilst continuing to deliver genuinely affordable homes at scale.

Whilst ultimately we aspire to go even further and build homes that are zero carbon, in many cases this will only be possible once we have removed fossil fuels from the electricity supply.

17. Do you agree with our proposals for improving the production and use of design guides?

Yes. To be successful these will have to be both clear and specific but also concise. Too often existing plans are overly verbose to the point of obfuscating expectations. Design guides must also be realistic about what is economically feasible and acceptable, especially with regard to local adoption policies. The role of the new 'expert body' will be key to this and they must have sufficient clout to call in local authorities that are too ambiguous or unrealistic with the expectations.

18. 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. For this to be successful local authorities will need to be given sufficient resources to grow their planning team and recruit and retain talented people, including for the new chief officer posts.

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

Yes and it would be worth considering how the grant programme could be used to meet these objectives, especially with regard to environmental sustainability.

20. Do you agree with our proposals for introducing a fast-track for beauty?

Yes. We believe this could work well as long as the 'fast-track' is based on meeting clear specifications in the local or national design codes, and not allowed to turn into a more subjective process.

Pillar Three – Planning for infrastructure and connected places

Overview

We support the Government's ambition to replace the over complicated Section 106 and Community Infrastructure Levy framework with a new Infrastructure Levy. This should be applied consistently across all areas, but Government may need to

consider redistributing resources to low value areas which may struggle to reap sufficient benefit. This could offer a strong boost to the Government's levelling up agenda, especially if combined with a stronger focus on delivering mixed tenure affordable homes through developer contributions. Renaming the Levy the Infrastructure and Affordable Homes levy would be a helpful statement of intent.

We do not agree with the suggestion of making the levy more flexible so local authorities can use it for other purposes. We think this would be irresponsible at a time of national housing shortage.

Detailed answers

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

We need to secure a greater diversity of tenures on large sites and higher proportion of affordable homes. We believe First Homes have a part to play in this but they must not be introduced at a detriment to other affordable products including homes for rent and shared ownership. Savills research demonstrates that shared ownership provides a more affordable route to home ownership, with lower deposit and income requirements. Homes that are affordable to rent are often the only option for those with the most acute housing need.

We believe the planning framework should set out minimum requirements for shared ownership and affordable rent tenures on large sites, as well as for First Homes. The Infrastructure Levy offers a good opportunity to set out the need for multiple types of affordable homes. Perhaps it could even be renamed the Infrastructure and Affordable Homes Levy?

22. (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. Current requirements set out under S106 and CIL are far too often subsequently negotiated down as part of viability assessments. We believe the Infrastructure Levy could address this problem by introducing more certainty and consistency. It would also encourage developers not to over-estimate the value of their new homes, supporting greater affordability.

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

There should be a national single rate. The lesson of the current regime is that local differentiation can lead to ambiguity and make it more difficult to uphold policy. There is, however, a danger that this could lead to less investment in affordable homes and infrastructure in lower value areas compared to higher value ones. As part

of the levelling up agenda, the Government could introduce a system where resources are pooled and redistributed so that lower value areas get an equitable level of investment. This would be better than charging a higher levy in lower value areas which would make them a less attractive prospect to developers.

(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?

It should aim to capture a broadly similar amount of value. Being overly ambitious could simply end up increasing costs for buyers and ultimately making housing less affordable.

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

Yes. This could play a very valuable role in unlocking stalled sites. Perhaps groups of authorities or existing combined authorities could pool resources to invest in significant infrastructure or affordable housing developments where appropriate?

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

Yes. It is important that the permitted development rights regime is not used as a loophole to avoid contributing to affordable housing and local infrastructure.

The Infrastructure Levy should not, however, apply to sites that are for 100% affordable homes. The Planning White Paper is a valuable opportunity to correct this anomaly which sees resources taken away from affordable housing and can ultimately affect the viability of all affordable sites which are delivered to much tighter margins.

24. (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?

We welcome the Government's commitment to continuing to deliver on-site affordable housing at least at present levels through developer contributions. As the paper acknowledges, this route plays a vital role in affordable housing supply.

We agree that local authorities must have a role in determining forms and tenures but believe the new levy should make specific reference to the importance of including affordable homes across a range of different tenures, including rent and shared ownership.

In addition to having a minimum requirement for First Homes, there should also be minimum requirements for shared ownership and affordable rent homes on large

sites, with local authorities given discretion to exceed these requirements or redistribute them across different sites as they see fit.

(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?

We believe a 'right to purchase' or 'first refusal' option would be the easiest to apply. Not only could in-kind delivery result in substandard homes, it could also be problematic in areas where local authorities do not manage any housing themselves and rely entirely on housing associations.

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

As above. Local authorities and housing associations should have the option of a 'right to purchase' or 'first refusal' but local authorities should still be able to opt to charge the levy instead if the homes offered are not suitable,

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

As above.

25. Should local authorities have fewer restrictions over how they spend the Infrastructure Levy?

No. At a time of acute housing shortage it would be irresponsible to redirect funds away from affordable housing delivery and the infrastructure that makes new development possible.

Get in touch

If you would like to know more about Midland Heart or our response to this consultation please contact Robert.hunter@midlandheart.org.uk