

SENP Response into DCLG consultation – Planning White Paper.

About the South East Nature Partnership:

The SENP is a consortium of former south-east regional Local Nature Partnerships, with support as appropriate from the South East, Coast to Capital and Enterprise M3 Local Enterprise Partnerships. Local Nature Partnerships (LNPs) across the south-east have committed to working together to create large scale opportunities for Natural Capital investment which reflect the natural geography and geology of the region, and may be delivered via the Clean Growth Strategy and local industrial strategy drivers.

General comments.

Whilst we can concur with many of the pre-amble criticisms of the current planning system, including its often painstaking bureaucracy and related risk aversion, we also meet this proposed overhaul of the system with considerable trepidation. Its primary driver appears to be the slowing of new home building, as signalled strongly in the Prime Ministerial foreword. But land-use planning concerns so much more than this. The basic fitness of our natural environment in being able to support us must surely take precedent over the necessity to take shelter from it, and the planning of future land-use has a major influence on this. The opening paragraph (1.1) provides some recognition of planning's multi-purpose role, but we must wait until almost the final pages of the White Paper before issues such as climate change adaptation and biodiversity recovery are mentioned and duly linked to other of the Government's current initiatives.

There are reasons why many of the constraints on development designed to protect the environment can appear convoluted and unnecessarily replicated; some are essentially interpretation of various legal commitments, while others make the best of what is fundamentally fairly 'woolly' and often overly-reduced policy drafting. Plan-making is primarily drawn-out by the requirement to begin afresh with every new incoming parliament, which then takes its turn at again shifting the proverbial goal-posts. In summary, there is a very real fear that some of the better, hard-won and more effective checking mechanisms involved in planning could be unwittingly lost in such a root-&-branch reform. However that doesn't mean we would not support streamlining and simplification of the process, provided the outcomes are beneficial to biodiversity.

Whilst the observation of antiquation in its data-management is valid, the planning sector has improved on this hugely over the recent decade. The main problem here is the increasing strain on local government resources, where continuity of essential services will of course always take priority over investment in IT capacity. There is also the fact that full digital access is still far from reality for a significant proportion of society.

There is pre-occupation with the subjective quality of 'beauty' throughout the White Paper. Beauty, in truth, is only ever in the eye of the beholder and achieving societal consensus on such is notoriously difficult. Use of this therefore suggests naivety on behalf of its proponents that is disconcerting.

Similarly, the criticism of local planning authorities' performance on permitting house-building also misses a significant brake that is largely out of their control under the current system. This is the

established practice by which land-owners and developers delay build-out of allocated and/or permitted sites in hope of optimising the value of the land and the eventual development. Under-supply inflates house prices but their increased value only favours the developer. Indeed it is only now when COVID-19 threatens recession that we are sensing a certain resignation and related movement in realising build-out on banked development land.

Somewhat perversely, your proposal to prioritise house-building by present housing unaffordability would put greatest additional development pressure on the wealthiest and least-deserving regions of the country, for need of vital regeneration activity.

Finally, the White Paper's aim to rediscover the original mission of the planning system at the turn of the last century might be interpreted as a misplaced intention of the uninitiated to take us backwards in terms of progress. A simplistic zonation of land into strictly-purposed land parcels, often isolated in terms of their compatibility of function and with no room for the application of over-arching and holistic beneficial principles, is a feature of past planning practice that we do well to have evolved away from.

Specific questions on headline proposals.

Question 4. What are your top three priorities for planning in your local area? [~~Building homes for young people / building homes for the homeless /~~ **Protection of green spaces / The environment, biodiversity and action on climate change /** ~~Increasing the affordability of housing / The design of new homes and places / Supporting the high street / Supporting the local economy / More or better local infrastructure / Protection of existing heritage buildings or areas /~~ **Other – please specify**]; **the creation and delivery of a Nature Recovery Network.**

Question 5. Do you agree that Local Plans should be simplified in line with our proposals? **No.**
Supporting Statement:

- **As alluded above, this approach if not carefully managed could take planning backwards; a definitive categorisation of land-use with reduced opportunity to impose over-arching principles that ensure the goal of universal sustainability. Even if this is in some way stipulated, there would in effect be little patience for such considerations in 'Growth' areas, especially within a stripped down regulatory regimen. We would insist that there must be no dilution in the requirement for all development to achieve the very highest standards of 'sustainability'.**
- **There is no indication of how the scale of this tri-zone mosaic is envisioned. Would the average sizes of these equate with those of current development site allocations, or to whole towns, for example?**
- **The concept of the 'Protection' zone is, for us, key. How is the composition of this envisioned in terms of its overall size, connectedness, diversity, functional efficiency, etc.? Surely this would include at the very least, all the land that must be identified within Local Nature Recovery Strategies as necessary to achieve the intended national Nature Recovery Network (as both its existing 'core' elements and those still to be realised). This would be the absolute minimum necessary as a *Protection* zone however, as all those open spaces adequate and necessary to achieve truly sustainable development (as 'Green Infrastructure') within both *Growth* and *Renewal* zones, should ideally also be included within the Nature Recovery Network (and see**

our supporting statements on questions 19 and 21 regarding the implications of the Environment Bill, below).

Question 6. Do you agree with our proposals for streamlining the development management content of Local Plans, and setting out general development management policies nationally? *No.*

Supporting Statement: Only if these generically-applied policy goals are where the ambition for achieving sustainable development is clearly and effectively retained. Also, if development management decision-making becomes too nationally-driven, there is a distinct threat implied to the local democratic process. For example, if there is a local appetite to be more ambitious or to accelerate the achievement of sustainability standards, this could be lost in a top-down, overly-prescriptive approach such as that proposed. Where would local aspiration to require Biodiversity Net Gain percentages higher than 10% find credibility, for example? (The Nature Partnerships in the South East are presently recommending 20% to respective local planning authorities). You may well find that everyone's local 'exceptional circumstances' are not actually exceptional but instead represent a universal need for preserving the unique vernacular of any given situation.

Question 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 of environmental impact? *Not sure.*

Supporting Statement: As can be anticipated in view of our earlier comments, we welcome the intention stated in paragraph 2.17 for retaining the requirement for achieving sustainable development throughout the planning system, and for that to be clearly defined. This must of course refer to its environmental dimension, but also how as natural capital this predicates the economic. We also understand the intent and reasoning for attempting to consolidate the regulation of sustainability standards, especially given the loss of previous drivers deriving from our former membership of the European Union. Again however, this would require extreme care in its management, in order for the existing high standards not to be jeopardised. Assessment of environmental impact has developed into a tried-and-tested methodology, which may be excused its apparent complexity for needing to comprehensively address the broad scope and interdependency of the natural environment, and our fundamental dependency on this as natural capital.

Question 7(b). How could strategic, cross-boundary issues be best planned for in the absence of a formal Duty to Cooperate? *Perhaps by the establishment of specialist advisory bodies with more extensive, strategic remits, to which local planning authorities could defer, for example on aspects of sustainability regulation.*

Question 8(a). Do you agree that a standard method for establishing housing requirements (that takes into account constraints) should be introduced? *No.*

Supporting Statement: The present system suffers uncertainty because the calculation of housing need is constantly being changed, which creates considerable difficulties for local planning authorities when preparing local plans. Many south-east planning authorities are tightly constrained by Green Belt, AONBs and other environmental designations. There is a regrettable lack of flexibility in applying the current methodology and this requires review, such that planning authorities are able to adjust the housing requirements prescribed nationally to reflect local constraints. Planning colleagues clearly find the present system intolerable with its implied threat to the soundness of their plans due to an inability to fully meet their housing requirements.

Question 8(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. Supporting Statement:** House pricing differentials (ie. affordability) are mainly influenced by the state of local economic health and locational desirability. To focus house-building by affordability would compound the national inequalities in house-prices and opportunities for emphasis of regional economic regeneration, and also serve to de-value the desirability and hence economic stability of the regions least in need of economic uplift.

Question 9(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. Supporting Statement:** Many decisions have to be made at outline stage predicated on the deliverability of, for example, environmental impact mitigation strategies, which may only be properly scrutinised much later in the process (ie. at detailed stage). Under this proposal, the opportunity for a two-stage consideration and pre-emptive refusal perhaps on grounds on unsustainability will be lost.

A comment on the legitimacy of Brownfield Registers as a means of fast-tracking development: there remains an issue in existing policy related to the over-ruling assumption that brownfield sites are clear of any biodiversity value. 'Open mosaic habitats on Previously Developed land' are perhaps some of, if not the most, dynamic of the Habitats of Principal Importance referenced in Section 41 of the Natural Environment & Rural Communities Act 2006. Their age since abandonment frequently directly relates to the accumulated biodiversity interest of such sites, so to dismiss them as developable as of a certain point in time misses this critically important factor in their evaluation. This needs better recognition and reflection within some form of timed review cycle, if the development potential remains unrealised.

Question 9(b). Do you agree with our proposals above for the consent arrangements for Renewal and Protected areas? **No. Supporting Statement:** There must clearly be different arrangements than those operating in the *Growth* zones. Protected should mean protection however, so development-type applications would essentially be limited.

Question 9(c). Do you think there is a case for allowing new settlements to be brought forward under the Nationally Significant Infrastructure Projects regime? **No. Supporting Statement:** There is every likelihood that this could undermine essential planning considerations by pre-empting their 'national significance' on economic/social grounds. NSIPs should involve infrastructure projects only.

Question 10. Do you agree with our proposals to make decision-making faster and more certain? **Yes. Supporting Statement:** On principle yes, but this must not compromise environmental protection and related sustainability standards. Where the proposal to become more reliant on design codes to guide decision-making on permissible development (ie. without the need for detailed supplementary supportive documentation), would relate to future environmental regulation, there must be necessity for completion of much clearer, prescriptive and obligatory checklists of pre-emptive considerations, as have been introduced locally and *ad hoc* by some LPAs with encouragement from the CIEEM and local eNGOs. Obligation is critical here; 'guides' and guidance implies that advice is only that, and are far less effective as a driver for attainment of progressive and ambitious targets.

We should also point out that, according to the National Audit Office's latest figures 81% of major applications are successfully determined within the statutory 13 weeks. Given that some applications are highly complex and have justifiable reasons for determination being delayed, this performance actually appears to be pretty good. Also, it is not at all clear that the impact of reducing the time period in terms of improving quality of decision-making has been assessed.

Question 11. Do you agree with our proposals for accessible, web-based Local Plans? *Yes.*

Supporting Statement: But note internet 'deserts' still exist in many rural areas.

Question 12. Do you agree with our proposals for a 30 month statutory timescale for the production of Local Plans? *Yes.* **Supporting Statement:** Yes, but again this must not compromise environmental protection and related sustainability standards. It would be very useful to know what this proposed 30 month revised target is based upon. Part of the reason for delays in the current system is the repeated revision of national guidance as previously referenced. A further reason is the extensive consultation undertaken under the present system. But ironically if the government intends to reduce this, it would run contrary to the objective of improved public accountability in the planning system. The proposed reforms want to make development control more plan-led. Local plans would therefore become even more important, and yet the time given to prepare them would be reduced.

Question 13(a). Do you agree that Neighbourhood Plans should be retained in the reformed planning system? *Yes.* **Supporting Statement:** Yes, as Neighbourhood Plans have been very useful vehicles for carrying the necessary detail on spatial planning at the finest grain of local government. As Neighbourhood Plans must be in compliance with their wider Local Plans however, there will need to be some careful consideration of how reforms for local planning translate here, if this usefulness is to be genuinely retained.

Question 13(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? *It is important to note that neighbourhood planning has been successfully achieved despite the constraints of a largely voluntary, low-budget effort. Many neighbourhood fora are made up of non-specialists in information technology and have limited funding to buy this (notoriously over-charged) advice in, and all these aspects must be considered.*

Question 14. 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.* **Supporting Statement:** Yes, but also see the comment on this matter in our pre-amble response.

Question 16. Sustainability is at the heart of our proposals. What is your priority for sustainability in your area? [~~Less reliance on cars / More green and open spaces / Energy efficiency of new buildings / More trees /~~ Other – please specify] *More trees, green and open spaces yes, but these must comprise valuable, significant (in terms of both quantity and quality) and expertly-advised additional habitats for wildlife that will contribute to recovery of biodiversity and abundance. Trees are an integral and important element of many wildlife habitats, but have also become everyone's default response to regulatory requirements for supply of environmental 'solutions'. There are certain environmental situations where tree planting would be ecologically disastrous, as acknowledged in the draft England Tree Strategy, and recently consulted by Defra.*

Question 17. Do you agree with our proposals for improving the production and use of design guides and codes? *Not sure.* **Supporting Statement:** There is so little information presented here concerning how design guides and codes would work in practice that this is an impossible question to answer. Also, as always the requirement for use of such generic standards would anyway be totally reliant on their adequate enforcement.

Question 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.* **Supporting Statement:** But only on condition that such an office must incorporate adequate advisory expertise in the environmental sciences, including ecology and biodiversity matters. It should be noted that such bodies and institutions have been created in the past, to varied effect. Any new office's task could actually be made more difficult by other of the White Paper's reforms that would make the likelihood of improved design far less likely. Initiatives to raise design standards need to also involve the development sector and importantly its innovation research advisors, and allow local planning authorities increased powers to refuse mediocre developments.

Question 19. Do you agree with our proposal to consider how design might be given greater emphasis in the strategic objectives for Homes England? *Yes.* **Supporting Statement:** These objectives must align with the objectives of the 25-Year Environment Plan, and be integrated with the requirements of the Environment Bill and its Local Nature Recovery Strategies. These would prescribe minimum standards for provision and performance of Green Infrastructure (in terms of its genuine biodiversity value - as Biodiversity Net Gain - and access to nature).

Question 20. Do you agree with our proposals for implementing a fast-track for beauty? [*Yes / No / Not sure.*] **Supporting Statement:** This is frankly an entirely subjective concept (see comment in preamble above). What would 'beauty' standards prioritise? Architectural vernacular perhaps, but in terms of their relevance to landscaping and the design of new Green Infrastructure there is every chance that we would be adopting purely aesthetic values as prioritised by landscape architects over those of ecologists attempting to achieve 'useful' wildlife habitat. There has always existed a potential for tension on this matter, where progress towards conciliation in both camps since the millennium could well become reversed.

Question 21. ~~When new development happens in your area, what is your priority for what comes with it? [*More affordable housing / More or better infrastructure (such as transport, schools, health provision) / Design of new buildings / More shops and/or employment space / Green space*]~~

Supporting Statement: We welcome much of the reassuring rhetoric contained in paragraphs 3.22-3.27, concerned as it is with the non-compromising reform of the existing system of environmental regulation enabled through the planning system. We particularly welcome the mentions and implied cross-referencing with the aims and objectives of the 25-Year Environment Plan, its legislative framework in the Environment Bill and the forthcoming call for the preparation of Local Nature Recovery Strategies (para. 3.23). There are some fine words here and let us hope that they are exacted genuinely.

We would like to make some relevant observations on these matters, albeit unsolicited by questions, but hopefully still of use to you.

- When talking about the LNRS, their spatial representation by way of pieces forming the aspirational Nature Recovery Network, in our view requires clear articulation as early as possible.
- The needless duplication of environmental data and information demanded by parallel legislative drivers now to be replaced, we agree is crying out for some consolidatory reform (re. para. 3.27). Indeed But where paragraph 3.28 proposes that “..*National and local level data, made available to authorities, communities and applicants in digital form, should make it easier to reuse and update information and reduce the need for site-specific surveys*”, there are some over-looked implications here on which we would urge caution. For example, there is a difference between surveys and data duplicated because of difficulties of access due to intellectual property rights, and that which derives from an express need to improve on perhaps previously inadequate or out-of-date survey data. These must not become conflated.
- With respect, there is also a somewhat naïve assumption of the universal quality and quantity of pre-existing environmental information, especially that involving species status and distribution. Local data is often of higher resolution than national and subsequently much more helpful. But even this is highly variable in its power of representation and new opportunities for improving on these data-sets are therefore almost always welcome. What really is in dire need of reform is the insistence for and enforcement of data-sharing between all interested parties (be they regulatory, private or voluntary) and a reliable, well-resourced central coordination hub - arising from private commission as this data often is. This should also be routed as appropriate via Local Records Centres as these issues are typically best-managed at the local level. The present biological recording management system suffers greatly from under-resourcing; if the future planning system is to become ever more reliant on its services and standards of professionalism, a step-change in state financial support will be crucial.
- Energy efficiency standards for buildings must reconcile the potential for tension with the requirements of synanthropic wildlife (some of which is legally protected from disturbance) that can be effectively excluded by the practical measures implemented under such considerations.
- Finally, we eagerly await the further consultation indicated for this autumn on maximising opportunities for environmental improvements while also meeting our domestic and international obligations for environmental protection. We would caution however, that every effort is made to fully integrate this with the reform of the planning system, whereby the intention to simplify future planning regulation recognises an important opportunity to embed a holistic approach where the health of our natural environment is an equal priority to future house-building.

Question 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? [*Not sure. Supporting Statement:* Very little CIL money is currently made available for environmental projects as it is virtually all allocated for built infrastructure. If CIL becomes the only mechanism for securing ‘developer contributions’ and expands its scope in parallel, there is likely to be even less funding available for green projects. A reform along these lines should be more prescriptive on eligibility/elements of spend and their relative proportions. Note the need for consolidation or alignments with, for example obligatory Biodiversity Net Gain budgeting, and where locally relevant, statutory contributions to Special Protection Area Avoidance Strategies.

Question 22(b). Should the Infrastructure Levy rates be set nationally at a single rate, set nationally at an area-specific rate, or set locally? **Locally.**

Question 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?

Yes. Supporting Statement: Yes, on the principle of promoting social justice, and particularly in the south-east where this has particular implications for advancing environmental justice (ie. egalitarian access to nature and its health and wellbeing benefits).

Stronger enforcement.

5.28. As part of the implementation of our planning reforms, we want to see local planning authorities place more emphasis on the enforcement of planning standards and decisions. Planning enforcement activity is too often seen as the ‘Cinderella’ function of local planning services.

Proposal 24: We will seek to strengthen enforcement powers and sanctions. There is no corresponding question on this matter, but we consider this Proposal 24 (concerned with upscaling enforcement powers) to be of the utmost importance, and we welcome any reforms that enhance the currently under-funded area of planning enforcement. Legislation and policy requirements will only ever be effective with a sufficient deterrent with which to challenge potential transgressors. This inevitably requires adequate investment.