

# Webinar

## Recent and Proposed Changes in Town Planning

13:00 – 14:30, Wednesday 9 September



Bevan Brittan 

# Welcome

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Ltd

<https://www.communityventuresltd.co.uk>

# Agenda

1. Current and Future Changes – a practical perspective - Chris Pipe, Planning House
2. Current and Future Changes – a legal perspective - Dalee Kaur, Bevan Brittan
3. Question and Answer Session

# Current & future changes of the Town Planning system



**PLANNING HOUSE**

Unravelling the red tape

# Whistle Stop Tour of...

- Planning for the Future;
- Changes to the current planning system;
- Effects of COVID-19 on planning;
- What's next for planning?



# Planning for the Future

*“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 too many have for too long lacked the courage to do – tear it down and start again.”*

**The Rt. Hon. Boris Johnson MP**  
Prime Minister



# Criticisms of the existing system...

- Not fit for purpose;
- Too complex;
- Planning decisions are discretionary;
- It takes too long to adopt a Local Plan;
- Assessments of housing need, viability and environmental impacts are too complex and opaque;
- Lost public trust;
- Outdated technology
- Negotiating developer contributions is complex and protracted;
- Not enough focus on design and high quality place shaping; and
- Not enough homes being built.



# Pillar One: Planning for development...

## IN...

- Simplifying the local plan system including growth, renewal and protection areas, streamlined consultation, binding programmes for Local Plan production (maximum 30-month timeframe) and digitised standard plans;
- Automatic zoning approvals;
- New standardised method for assessing housing need;
- Development management set nationally and not duplicated in local plans;
- Increased use of technology to decide applications;
- Retention of neighbourhood plans but potentially with a more focused to reflect local plans and use digital tools;

## OUT...

- A protracted and overly delayed process for plan making;
- Requirement to demonstrate 5 year housing supply not required as local plans required to be revised every 5 years;
- Reams of evidence to support a local plan;
- Replacement of soundness test with statutory sustainable development test;
- Abolition of the duty to cooperate;
- Abolish Sustainability Appraisals.





# Pillar Two: Planning for beautiful & sustainable places...

## IN...

- National Model Design Code giving detailed parameters for various types of development;
- Locally set design standards and codes;
- Potential for a new expert body to help with design guidance /codes to be explored;
- Chief Officer for design and place-making should be appointed in each authority;
- Fast-track for beauty, pilot programme is required to test this concept;
- Flexibility on heritage protection to allow energy efficiency measures;
- Simplified Environmental Impact Assessments (EIA), Strategic Environmental Assessment(SEA) and Sustainability Appraisal (SA) process to remove duplication

## OUT...

- Development management policies within local plans;
- Duplicating system of Environmental Impact Assessments (EIA), Strategic Environmental Assessment(SEA) and Sustainability Appraisal (SA)



# Pillar Three: Planning for Infrastructure & connected places...

## IN...

- New national set rate or rates either single rate or area specific under an Infrastructure Levy designed to replace local CIL and S106;
- Levy charged on final value of a development and be levied at point of occupation;
- Infrastructure Levy could be extended to capture changes of use via permitted development;
- New Levy can be spent on affordable housing, as an 'in kind' payment;
- First Homes provision to offset the Levy;
- LPA's able to borrow against levy revenue;
- More flexibility for LPAs to spend Levy revenue improving services, reducing Council Tax – potential ring fencing of funding for affordable housing;
- Mayoral CIL in London and combined authorities could be retained.

## OUT...

- Potential abolition of planning obligations under section 106 agreements;
- Potential abolition of Community Infrastructure Levy.



# Changes to the current system consultation

This consultation sets out 4 main changes to the system:

1 – changes to the standard method for assessing local housing need;

2 - Delivering First Homes;

3 – Supporting small and medium sized developer;

4 – extending the current Permission in Principle to major development.



# Key features of PIPs

- 5 week determination period;
- 14 day consultation period;
- The application should be in the form of :
  - a description of the proposed development,
  - the proposed minimum and maximum number of dwellings,
  - the amount of any non-residential development,
  - the size of the site in hectares, and
  - a brief description of any supporting information that is accompanying the application.
- An LPA can not require the submission of information i.e. from its local/validation list and must determine the application on the basis of location, land-use and scale of development only rather than technical details such as design, transport and environmental issues.



# Effects of COVID-19 on planning

**Key legislation:** Business & Planning Act 2020, Town and Country Planning (Development Management Procedure, Listed Buildings and Environmental Impact Assessment) (England) (Coronavirus) (Amendment) Regulations 2020 & Coronavirus Act 2020

- PD Rights for emergency development - health services and local authorities;
- Additional Environmental Approval automatically extends planning permissions that would otherwise have lapsed sometime between 23 March and the end of the year;
- New "pavement licences", allowing businesses in certain circumstances to serve food and drink to customers outside their premises without making a planning application;
- Site Hours – 14 day process to temporarily vary conditions on construction site working hours;
- Publicity requirements changed to allow Councils flexibility in publicity and includes social media as a method;
- Virtual Planning Committees; and
- Ability for the Planning Inspectorate to choose appeal procedures depending on circumstances rather than which is the 'most' suitable.



# Effects of COVID-19 on planning (2)

- New Class E (Commercial, business and service);
- Class F2 – ensure that those uses (in previous class a1 – selling essential goods and some D2 - local/community hall, outdoor sport & recreation, indoor/outdoor swimming pool or ice rink) which are important to local communities are protected;
- PD rights retained by transitional arrangement until 31 July 2021
- Legal Challenge pending for Use Class changes and revisions to the GPDO;



# What's Next?

- Planning for the Future consultation will close 29<sup>th</sup> October 2020 – the time to review and implement changes are unlikely to be fast;
- Changes to the current planning system consultation closes 1 October 2020;
- New National Planning Policy Framework, consultation due Autumn 2020, Planning Practice Guidance will follow;
- National Model Design Code to supplement the National Design Guide published last year due Autumn 2020 – this will set out more detailed parameters for development in different locations;
- Revised and consolidated Manual for Streets;
- Simplification of Environmental Protection consultation due;
- Environmental Bill being considered.



# What Next (2)...

- Radical changes proposed;
- Challenges for Local Planning Authorities;
- Proposals to be consulted on later this year for improving the resourcing of planning departments;
- Development Corporations?.







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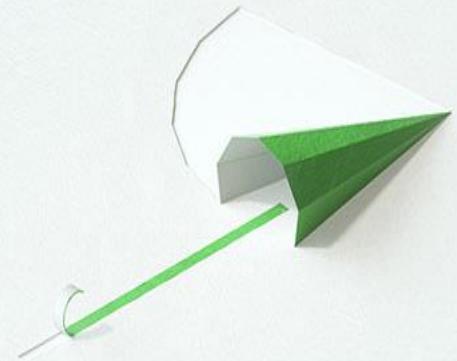
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**Planning White Paper:  
what it means for developer contributions**

Dalee Kaur  
Planning Partner  
Bevan Brittan



# Agenda

- Current system
  - Community Infrastructure Levy (CIL)
  - Section 106 planning obligations
- Criticisms of the current system
- Proposed new system - New 'infrastructure levy'

# CIL

- Fixed charge which is levied by local authorities on new developments to help deliver infrastructure
- Not mandatory for LPA's
- "Charging Schedule"
- Net additional floor space of 100 square metres, or creates a new dwelling
- Levy rates are expressed as pounds (£) per square metre
- Set on grant of PP - paid on commencement (inflexible in light of market conditions)
- Reliefs and exemptions

# Section 106 obligations – main purpose

- Town and Country Planning Act 1990

Planning obligation can: (a) restrict development and/or use of land; (b) require specified activities or operations to be carried out on or over land; (c) require land to be used in a specific way; or (d) require a sum(s) to be paid to the local authority

- Regulation 122

- necessary to make the development acceptable in planning terms
- directly related to the development
- fairly and reasonably related in scale and kind to the development

# Criticisms of current system

- CIL is too complex; uneven application by local authorities and developers; failure to deliver required infrastructure; inflexible in face of changing market conditions
- Immediate minor changes to the CIL Regs to allow First Homes to be eligible for relief like other types of AH
- Section 106 agreements: inconsistency, delay and “dark art” of viability discussions

# New 'infrastructure levy' (1)

- Abolish/replace CIL and current s106 planning obligations system with a consolidated infrastructure levy (IL)
- Fund infrastructure and affordable housing
- Calculation as a fixed proportion of the development value above a threshold, with a mandatory nationally set rate or rates (either single rate or at area specific)
- Value captured – depends on development value, existing use value and tax structure
- Would cover all development above a certain value based **viability** threshold, reflecting average build costs per sqm
- No IL where development is below threshold (*de minimis threshold*)

# New 'infrastructure levy' (2)

- Rate at point of PP - paid on occupation – unlike CIL
- Would apply to changes of use or specific permitted development – including office to resi – even where no floor increase
- Maintain current CIL exemption of self and custom build from IL
- Mayoral CIL “could” be retained
- Allow local authorities to borrow against IL to forward fund- funding used more flexibly than CIL (council services, reducing council tax, fund core planning services – not all infrastructure)



# New 'infrastructure levy' (3)

- On site AH in-kind provision would count an offset against IL – difference between unit sold to provider and market price – incentivise developers to build on site AH
- On or off site land transfer also can be offset against CIL
- LA's have “means to specify the forms and tenures of the on-site provision, working with a nominated RP”
- First Homes discount to market when sold direct to the customer would offset the levy

# New 'infrastructure levy' (4)

- Dynamic response options in relation to market downturn:
  - LAs could be allowed to “flip” a proportion of affordable units back to market units where AH in-kind offset has become greater than the IL itself
  - Alternatively, the developer would have no rights to reclaim overpayments
  - Government could provide standardised **agreements** to codify risk sharing
- If no RP wants the units due to poor quality, LA have option to revert to cash contribution

# The devil will be in the detail (1)

- What will be rate of levy setting? Already issues of viability in London
- Standard % rate of dev value is a blunt instrument with an inherent “averaging problem” i.e. seeking to reconcile different site costs & values characteristics e.g. greenfield v urban
- Mechanisms for paying for and providing AH
- Ensuring necessary tenures to the right quality and in the right places
- Who, between the developer and LPA will decide how much AH is provided on site and offset against the levy?

# The devil will be in the detail (2)

- How will the AH be secured, delivered, varied or monitored?
- Will viability assessments still have a role to play?
- Will there be credit against all on-site infrastructure?
- Will reliefs and exemptions apply as with CIL?
- Phasing clarity: phasing and timing of payments for large/phased dev (e.g. occupation of a block, phase or unit?)
- Levy used for wider purposes – risk levy may not be spent on infrastructure need created by dev

# Is this really the end of s106?

- White Paper doesn't tackle non housing obligations
  - Secure sustainable travel methods
  - Encourage the employment of local people
  - Provide retail units at affordable rent
  - Secure on-site facilities (e.g. open space, schools, doctors surgeries and community facilities)
  - Management of open space
- On-site AH – s106 likely to be needed to deal with AH specification, terms/value of transfer etc.?

# Thank you

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