

## Planning Live Event Q&A – 18 August 2020

### Neighbourhood Development Plans

**Q: What will be the implications for Neighbourhood development plans which are either being undertaken or revised at the moment?**

A: We will be preparing some further notes for NDP groups on this. Plans currently in preparation should continue. Neighbourhood Plans will be retained in the new system, but their role may be more focussed on design, local distinctiveness or other roles in supporting the new local plans.

**Q: In light of the last q & A are we wasting our time developing under the current guidance for NDPlans?**

A: No, it is clear that NDPs are included in the new system. We are awaiting further detail on this, but you should continue to prepare your plan under the current regulations.

**Q: Will the status of NDP be retained vis-a-vis their role in influencing planning decisions?**

A: Yes, that appears to still be the case. The proposals are under development, but they seem to still have the same status under the current proposal.

**Q: If the local plan becomes the primary document re planning, what status does a Neighbourhood plan hold?**

A: NDPs currently need to be in general conformity with the local plan that is in force at the time and we don't expect this to change. The exact role of neighbourhood plans in the new planning system is not entirely clear at the moment and are waiting for further detail, but it is clear that they are still viewed as important in the white paper.

**Q: How should we change our approach to NDP making?**

A: There is no simple answer to this question at the moment. We expect further detail in the Autumn and will publish guidance as soon as we have greater detail and certainty. The current system will remain in place until changes are made.

### Enforcement

**Q: There is only brief mention of enforcement in the consultation document. What additional enforcement powers do Cornwall Council feel they need to ensure developers actually implement schemes in accordance with approved documents?**

A: *Building Control response:* As you have referred to the 'approved documents' we assume that your question relates to Building Regulations approved documents and are answering on that basis: Whilst Cornwall Council already actively works to enforce the Building Regulations on a daily basis both proactively by a robust pre-application advice, formal plan checking and site inspection regimes (to avoid the contravention in the first place) and also reactively in relation to things like unauthorised building works that come to our attention by various means, it is possible that we will need to review our staffing resources depending on what the Regulator (the HSE) stipulates under the new regime. The draft Building Safety Bill does appear to suggest that the time window for enforcement via the courts will be significantly extended, with more severe penalties and additional measures such as 'stop notices' but of course this does not change the fact that the time and cost of formal enforcement via the courts will continue to be significant and hence still the last resort rather than a regular occurrence. It should also be noted that for 'in-scope' (high risk) buildings, the Regulator would appear to become the default Building Control enforcement body rather than the Council, and we don't yet know what resource the Regulator intends to make available for formal enforcement. Essentially 'enforcement' is perhaps more a question of appropriate resources rather than additional powers.

A: *Planning Enforcement response*: Whilst the Government have announced additional enforcement powers will be forthcoming the Council have no detail as to what they might be. The Council have an open mind to this and there are a number of additional measures that might be useful tools such as speeding up the Appeals process, increased fines for criminal matters, more ability to recover costs in enforcement matters and on the spot fines for certain breaches of planning control. The Council are currently considering their position on this before responding to the Governments White Paper setting out its preferences.

## **Draft Building Safety Bill/Building Control**

**Q: Will the enforcement and Building regs be retrospective?**

A: Yes- they already are, but the period of retrospective enforcement is being extended for some contraventions. Bear in mind that the Building Safety Bill is only a Draft bill at present though.

**Q: Re Building Control. Are there any significant changes to the rules for buildings under 18 metres in height? ie the vast majority of homes in Cornwall.**

A: Yes – in the last 18 months there have already been a couple of changes to The Building Regulations requirements relating to lower-rise buildings in relation to Fire, and we expect that more will come. The changes depend on the nature of use of the building, and this will also probably be the case for further changes, following recent MHCLG consultations. MHCLG have already issued ‘clarified’ versions of Approved Documents B (Fire Safety) as well as several subsequent amendments to it and related changes to The Building Regulations themselves. We understand that they are also working on a more significantly ‘revised’ Approved Document B to be released at some point in the future. MHCLG are also working on revisions to a number of other Approved Documents (e.g. Part L – Energy efficiency plus others), although these are not specifically related to the 18m height issue, as that is primarily related to Fire safety. We understand that there is also work ongoing to revise some of the Fire Risk Assessment Guides that apply to buildings once occupied, where the building is a ‘premises’ under The Regulatory Reform (Fire Safety) Order 2005. As well as more obvious ‘commercial premises’, ‘premises’ can include dwellings used for holiday letting, B&B use etc. and we are working closely with Fire Service colleagues where these requirements overlap.

## **Recovery measures/Business & Planning Act/Use Class changes/New PD rights**

**Q: Why is it necessary to extend the implementation of planning permissions when c. 1 million homes have planning permission and are not built?**

A: The proposal from Government is based on providing extra time for permissions to be implemented that may have stalled as a result of lockdown measures. It would not be possible to make a distinction between sites that have not come forward because of lockdown restrictions and other reasons.

**Q: Can you confirm that in built up residential areas restricting working hours is still appropriate. Particularly where there is no previous history of good site management or compliance with the CEMP?**

A: Yes, an application to extend working hours can be refused if the Council has good reason to do so

**Q: Does the pavement licence also cover 'A' boards?**

A: If 'A' boards means advertisement boards, then they do not fall within the new Pavement licensing regime under the Business and Planning Act 2020 as they are not articles used in connection with the consumption of food/drink. The Government guidance on Pavement Licences states that the furniture that can be permitted by a licence includes:

- Counters or stalls for selling or serving food or drink
- Tables, counters or shelves on which food or drink can be placed
- Chairs, benches or other forms of seating
- Umbrellas, barriers, heaters and other articles used in connection with the outdoor consumption of food or drink.

More information is available on our [Pavement Licensing](#) webpage.

**Q: Do the new PDRs apply in conservation areas, AONBS or the WHS?**

A: No, the rights do not apply to CAs, AONBs or the WHS.

**Q: Are they saying that a second floor could be built onto a bungalow in a row of bungalows?**

A: Yes, upwards by one floor only on a single storey property. However, there are conditions and a prior approval process.

**Q: Can I clarify whether additional floors can be added to homes or redundant buildings replaced, without usual consent, within AONB or other protected landscapes?**

A: The rights do not apply to conservation areas, national parks and the Norfolk Broads, AONBs and sites of special scientific interest.

**Q: To what extent do the new permitted development rights apply in areas of special landscape designation such as AGLV, AONB and WHS**

A: There are restrictions on the permitted development rights in the AONB and WHS, but the AGLV is a local designation and is not included

**Q: Will the PDRs deal with caravan sites which, with the granting of a lawful use certificate, can become residential park home sites?**

A: Caravan sites, including residential park homes sites, are uses of land but the PDRs relate to buildings, residential and commercial, so they would not apply to caravan sites.

**Q: Does "protected" cover those identified already in NPD 's?**

A: We are currently reviewing the proposals to understand whether protected areas include things such as locally designated green spaces and other designations created in neighbourhood Plans.

**Q: Can units on business park currently B1, B2 and B8 now become shops and cafes, potentially pulling businesses from the high street? Will this impact on funding available to build business parks which doesn't usually include retail?**

A: B2 and B8 uses are not affected by the changes. B1 uses fall within the new Use Class E which includes shops and cafes. Since the new Use Class Order makes no reference to spatial considerations, it also applies to 'out of centre' locations where changes of use within Class E will no longer require planning permission. It is not clear at this stage whether this will have an impact on business park funding.

**Q: What does the PDR prior approval process involve?**

A: A number of matters including an assessment of transport and highways, air traffic and defence impacts, contamination risks, flood risk, external appearance and adequate natural light in all habitable rooms and impact on neighbour amenity and protected views.

**Q: How will the cumulative effect of increased storeys on buildings be assessed in villages and smaller rural settlements, especially relating to character of these settlements?**

A: Unless the building is within a settlement which falls within an area where the new PDRs do not apply, for example a conservation area or AONB, the new rights do not distinguish between large towns and small hamlets. However, the prior approval process requires certain matters to be considered, see above, and external appearance 'including the design and architectural features of...the principal elevation of the dwellinghouse, and... any side elevation of the dwellinghouse that fronts a highway' may be a matter for consideration depending on the PDR being used.

**Q: Class E, will that mean that any commercial space in town centres could be converted to residential under PDR?**

A: No, Class E does not include residential use.

**Q: High Streets and town centres are changing and there is a need to reutilise buildings so there is more town centre living as well as other reason for people to come into towns and in doing so, support local independent traders. Is this something that is proposed or Cornwall Council is actively looking to encourage and facilitate?**

A: Cornwall Council is keen to facilitate changes to make town centres viable and to increase or reintroduce residential space. The Climate Emergency DPD includes draft policies in relation to this and the white paper proposes that zoning as 'renewal' could help to bring about planned change.

**Q: Any restrictions in AONB and WHS buffer zones? Or do we need to designate all open countryside and farmland as a protected area to ensure good planning?**

A: As we understand the proposals, land outside the growth and renewal areas will generally be protected. 'protect' will apply to AONB and WHS designations, but we're not sure how buffer zones will be viewed until we receive more detailed proposals in a later paper.

**Q: Will officers be able to ask for a full planning application where a prior approval scheme will affect the setting of a designated heritage asset?**

A: Depending on the new PDR being used 'the impact of the development on heritage and archaeology' may be a consideration of the prior approval process.

**Q: Have they given any ideas of the costs of these prior approval applications e.g. compared to the cost of a HH application? Will the expectation be that they generate more money for the Council?**

A: The prior approval fees for these new rights are being considered by Parliament, the proposals are £334 per new dwelling up to 50 units, and a fixed fee of £16,525 plus £100 for each dwelling in excess of 50.

## **Planning for the Future consultation**

**Q: Will the new legislation address the issue of land banking by developers?**

A: There are no firm proposals put forward in the white paper on this matter, but we are told that proposals are to be made later this year.

**Q: Are there currently proposals for planning measures for Cornish Distinctiveness, to help protect distinctive heritage and promote constructive conservation of it?**

A: This is likely to start becoming clearer as we get more detail about the proposed changes to the planning system. The proposals include the creation of binding design codes for new development

sites (prepared alongside communities) and we suspect that retention of Cornish hedges can form part of these. Biodiversity Net Gain to retain habitat including hedges will also be introduced alongside the proposals.

**Q: How will employment land be protected and developed to support places for jobs in Cornwall and in particular the areas where housing development is delivered?**

A: We are awaiting detail on this but the new 'renewal area' designation appears to allow for specific areas to be created for different uses. This may include an ability to specify particular uses to be retained where the use classes order does not already permit a change without the need for planning permission.

**Q: How do 'First Homes' compare with 'Starter Homes'. In previous proposals Starter Homes provided privileged entry for developers on to exception sites.**

A: There are a number of differences, but one significant change is removing the age cap for eligibility and a minimum discount of 30% on market value. A local connection criteria can be added to the requirements and the discount is applied in perpetuity. We will be publishing a note on the changes in due course. The current proposals include a temporary provision for first homes exception sites - we are working through the implications of this at the moment.

**Q: The White Paper talks about 'beautiful homes' and 'beautiful places/communities'...how are they proposing measuring 'beauty'?**

A: A National Design Code is to be published in the Autumn alongside further definitions of beauty. The new proposals allow Councils and communities to prepare definitions of building types that they wish to see in their areas. The method for this will be published later this year.

**Q: Can First Homes be rented at a discount?**

A: First Homes are defined as a low-cost purchase product

**Q: What is the definition of First Homes?**

A: First Homes are a discounted sale affordable housing product. First Homes are proposed to be made available to first time buyers at a discount of at least 30% and a maximum price of £250,000. Discounts in perpetuity will be achieved by placing restrictive covenants that require that the property is sold at the original percentage discount in each subsequent resale. These covenants will be re-established with every new purchaser of the property. When the property is sold, buyers will not be able to secure good title over the property unless the covenants enforcing the discount are met.

**Q: So, in AONB / other designated areas, at what threshold will developer have to provide affordable homes for local people?**

A: At present there is no change proposed from the current requirement. The requirement relates to proposals for more than 5 dwellings in designated rural areas and the AONB.

**Q: Will the change to small sites threshold also affect rural areas not deemed "designated rural" areas?**

A: Yes, the current proposal states that it will apply to all sites that are not 'designated rural' under the 1981 Housing Act or in the AONB. The proposals will not apply to rural exception sites at this time.

**Q: Is there more information available on how the number of homes already in an area will be taken into account in setting housing requirements?**

A: There isn't full detail yes, but the proposed methodology includes a percentage of existing housing stock levels as a new element into the standard method. This will take into account the number of homes that are already in an area. This is to understand whether the existing stock meets the needs of the existing communities in terms of providing the right size, type and tenure for different groups within the community and whether new homes are required to address this.

**Q: Who has the responsibility for ensuring the First Home buyer is actually a first home buyer? the scheme may be subject to abuse?**

A: Discounts in perpetuity will be achieved by placing restrictive covenants that require that the property is sold at the original percentage discount in each subsequent resale. These covenants will be re-established with every new purchaser of the property. When the property is sold, buyers will not be able to secure good title over the property unless the covenants enforcing the discount are met.

**Q: What is stopping developers just delivering batches of 49 houses to prevent the requirement for affordable homes?**

A: Policy 8 of the current Local Plan states that the Council will assess whether the density or number of dwellings proposed is lower than might reasonably be expected.

**Q: Can you confirm what the new housing target would be for Cornwall as per the Lichfield Consultants?**

A: Under the current proposals we understand that the figure would be around 4,000 dwellings per year from November 2021 until the methodology associated with the White Paper proposals has been agreed and implemented. The White Paper states that "future application of the formula proposed in the revised standard method consultation will be considered in the context of the proposals set out [in the white paper]. In particular, the methodology does not yet adjust for the land constraints".

**Q: What will the impact on overall numbers of houses be under the short term proposals?**

A: Under the current proposals we understand that the figure would be around 4,000 dwellings per year - around 1,000 more than are currently being delivered.

**Q: In Growth areas, do these cover existing land identified already as exception, etc?**

A: This is not clear in the current proposals, but there appears to be a suggestion in the White Paper that exceptions sites will be retained in the new system.

**Q: So, will Cornwall have to prepare a new Local Plan and what impact will that have on Neighbourhood Plans, in place or development?**

A: Yes, Cornwall will have to develop a new Local Plan under the proposals. We understand that Neighbourhood Plans will need to be in general conformity with the new plan once it is in place.

**Q: How can the White Paper be consultative? A White Paper is a Policy Paper so can we input?**

A: The White Paper sets out a number of questions and is asking for responses to questions. The consultation is open until 29<sup>th</sup> October 2020.

**Q: Are there any requirements to provide a certain number of affordables for rent? Or can developers simply provide First Homes to discharge their obligation?**

A: As set out in the Local Plan, we typically seek 70% AR and 30% intermediate housing – currently our preference is Shared Ownership (SO) but this can be a mix of Discount Market Sale (DMS) and SO or just DMS. So in future this 30% is likely to be made up of 25% First Homes and 5% of other intermediate housing. Based on what we know to date and having in place an

adopted Local Plan it appears we will have the necessary discretion to seek an appropriate mix subject to 25% is First Homes making up the intermediate element of the affordable housing mix.

**Q: How will building for sale as 2nd homes be restricted?**

A: The White Paper does not contain any proposals relating to this issue and it is not currently controlled by the Cornwall Local Plan. It is unclear whether the new system will provide the flexibility to include principal residence policies in local plans.

**Q: Considering the absolute majority of developments that contribute to the affordable housing pool in Cornwall are under 50 units, how are we going to deal with the huge loss if developers keep the threshold under 50 to avoid the contribution?**

A: The proposals for raising the affordable housing threshold only apply to urban areas - areas designated as rural would not be impacted and will retain current affordable housing thresholds. On urban sites, Policy 8 of the current Local Plan states that the Council will assess whether the density or number of dwellings proposed is lower than might reasonably be expected. The threshold change does not apply to rural exception schemes.

**Q: Are First Homes 'affordable' in perpetuity, or will the discount be a one-off?**

A: The proposals set out that the first homes product will need to be made available in-perpetuity

**Q: How will important, previously unknown buried archaeology, currently revealed following HIAs required as part of the planning process, be considered in growth areas?**

A: We are not certain what the requirements will be for the identification of growth sites and how, when the sites will effectively automatically be granted outline permission, requirements for surveys for ecology, HIA etc will be carried out, by whom and at what stage.

**Q: What professional qualification will be required for a "chief officer for design"?**

A: There is currently no guidance relating to this suggestion in the White paper. The Building Better Building Beautiful Commission (where the suggestion was first made) recommended that a Chief Placemaker should be appointed with experience beyond planning, particularly in infrastructure or the environment.

**Q: Are you expecting the new infrastructure levy to generate the same or more funds than through existing levies?**

A: The White Paper suggests that the new infrastructure levy will generate the same or greater funds although this has not been tested against the current situation in Cornwall. The understanding that the proposal is that the levy proportion will be set centrally and will be linked to final land value.

**Q: If that is true are more functions expected to be supported through the new infrastructure levy?**

A: Yes. There is an expectation in the White Paper proposals that the levy will cover a variety of infrastructure provision needs, potentially including affordable housing and the preparation of the new Local Plan.

**Q: Pillar3 para 3 - does local authority include Local Councils?**

A: It is proposed that there will be less controls on how the funding is spent and it is assumed that the same will be applied to the spending of the top slice given to Parish and Town Councils. In practice the detail of this proposal will be important.

**Q: Will Cornwall Council share its responses to the consultations**

A: The Council will publish its response on the website

**Q: People live in houses and require services. No mention of Public Health issues such as the safe disposal of foul sewage, adequate water supplies etc. seem to have been addressed or have I missed the vital line?**

A: The current proposals are broad and do not cover the detail of planning for new infrastructure. It is proposed that “plans should be informed by appropriate infrastructure planning, and sites should not be included in the plan where there is no reasonable prospect of any infrastructure that may be needed coming forward within the plan period. Plan making policies in the National Planning Policy Framework will make this clear”.

**Q: What about addressing the 2nd home situation here in Cornwall where we have so many new homes being built as non primary residence?**

A: The White Paper does not contain any proposals relating to this issue and it is not currently controlled by the Cornwall Local Plan. It is unclear whether the new system will provide the flexibility to include principal residence policies in local plans or neighbourhood plans.

**Q: What do you mean by 'front loaded' and who will be required to undertake this work and pay for it?**

A: There is no detail of this at present - we expect further detail in the autumn as part of the Government's response

**Q: What do the new planning rules say about building homes in flood risk areas?**

A: The proposals exclude flood risk areas from the growth category

**Q: With more dense development on brown field sites, there has been no mention of recreation areas for children and families?**

A: We are expecting more detail on how things like open space requirements will work as the White paper progresses

**Q: When would these changes be implemented?**

A: There is no published timetable for the changes to be made. There are a number of references to further guidance or processes being consulted on in ‘autumn’. The paper makes reference to all local plans being in place by the end of the current parliament, so it implies that changes need to be made by around the end of 2021.

**Q: Will Parish & Town Councils still play a role in the planning process?**

A: Yes, the new system still proposes involvement in plan making and the development of neighbourhood plans as well as planning applications.

**Q: Will the Infrastructure Levy (replacement of CIL and S106) be kept entirely by Cornwall Council or will some of it be given to Town and Parish Councils?**

A: One proposal/option of the White Paper is that the 25% top slice for parishes will be retained. Further detail is expected on this matter.

**Q: Even at the level of one street, the design of buildings, their scale, materials, maybe ruins or old orchards in their back gardens, etc, varies greatly with their history - will we risk losing this diversity and meaning?**

A: As the proposals in the White Paper progress we will start to understand points like this. The section relating to neighbourhood Plans explores options to provide opportunities for very small



neighbourhood plans (even down to the scale of street level) to set out the character and design expectations of communities.

**Q: Present 20-year Local Plan target is 52,500 (2,625 per annum). Target in new 20-year Local Plan would be over 80,000 units! How can this be deemed appropriate or sustainable?**

A: Under the current proposals we understand that the figure would be around 4,000 dwellings per year from November 2021 until the methodology associated with the White Paper proposals has been agreed and implemented. The White Paper states that “future application of the formula proposed in the revised standard method consultation will be considered in the context of the proposals set out [in the white paper]. In particular, the methodology does not yet adjust for the land constraints” – this may further adjust the figure calculated using the interim proposed methodology. The Government proposes that where affordability improves, this will be reflected by lower need for housing being identified.

**Q: How will Cornwall's dispersed settlement pattern be protected by these proposals?**

A: The new Local Plan will need to consider how best to apply whatever system we have to our settlement pattern. We will better understand this challenge as proposals for the new system are firmed up by Government.

**Q: When using the designation "Rural" or "Urban" for decision making who will decide this and how? Our parish is rural for most of its area but the population is concentrated in an urban area.**

A: The definition of rural for affordable housing purposes is covered by an existing mechanism. Designated rural areas are defined by the 1981 Housing Act.

**Q: Who is going to pay for the necessary heritage and environmental assessments at the plan making stage? and how can they be done within the short timescale of 30 months?**

A: The exact method of allocating the growth and renewal areas is not yet known. It could be assumed that in order to allocate (and thereby effectively grant permission) will require surveys to be undertaken up front to establish whether the land can be delivered in terms of ecology, historic assets and other constraints to development. One suggestion from Government is that the landowner pays a (non-returnable) fee for the site to be considered, although the cost of surveys are likely to be in excess of any reasonable fee for this. The Council may wish to seek additional burdens payments from Government to cover these expenses.

**Q: Are they calculating the new housing numbers on demand or need?**

A: The Government states that it has based the proposed new approach on ensuring that the new standard method delivers a number nationally that is consistent with the commitment to plan for the delivery of 300,000 new homes a year, a focus on achieving a more appropriate distribution of homes, and on targeting more homes into areas where they are least affordable. There is a considerable focus on affordability of housing stock in the new methodology.