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Dear Sir

## **Response to the call for Written Evidence - The Planning and Infrastructure Bill - House of Commons Public Bill Committee**

The Wimbledon (Civic) Society was originally formed in 1903 and currently has over a thousand members.

In addition to monitoring and commenting on planning applications, and contributing to Local and Regional Plans, the Society has produced its own plans, environmental schemes, design guides, and undertaken environmental surveys. Climate Change, involving retrofitting, setting targets for solar and heat pumps is a current issue. We believe that our experience of the planning system provides a background for making this submission.

In this short paper we take some of the main headings in the Bill, summarise what is proposed, make comments, and then suggest some possible changes for the Committee's consideration and discussion.

### **EXECUTIVE SUMMARY:**

- Improve public buy-in to major projects by creating an independent consultative group for each project
- Ensure that Councillors retain full local responsibility for Officers' delegated planning decisions
- Tree loss replacement needs a new national standard, quite separate from the Nature restitution scheme
- The restitution of lost nature is welcomed, but a simpler approach is needed than the current BNG scheme
- Land Value Capture payments should include disturbance payments above hope value
- Token public consultation should be replaced by public groups' involvement in scheme creation & design
- Planning Authorities should have a qualified and designated Chief Planner, and a defined planning office
- The planning process should be simplified by stripping out non-planning items like Viability.

### **1.0 CRITICAL INFRASTRUCTURE REFORMS**

1.1 The Bill says that these large national projects (perhaps up to 30 per year?) are unreasonably held up by the present planning system, so changes are needed to improve "certainty and speed". The Bill aims to "make consultation less burdensome". And that HMG will produce and review "National Policy Statements" every five years to drive and guide these projects.

#### **Comment:**

1.2 Local people will probably continue to feel that their responses to consultation on national projects will effectively count for little, and be ignored, even if this is not always the case. Although the Civil Service would of course have produced a summary of all the public responses for Ministers, their report was never made public.

#### **Suggested Action:**

1.3 To counter this public dissatisfaction, HMG could consider **setting up a formal and independent advisory/consultative group**, for every individual major national project.

It would bring together and articulate the many local views on the project and then report publicly to HMG.

The public would then at least be able to see that their responses were being treated independently and openly.

## 2.0 PLANNING COMMITTEES AND DECISIONS AND DELEGATION:

2.1 The Bill says that decision-taking in the planning system is too slow and variable. It is proposed that officers in Local Planning Authorities should be given powers to take **delegated decisions**.

### Comment:

2.2 As worded, this proposed delegation arrangement could be very damaging to local democracy.

2.3 Taking decisions away from local councillors would allow them to say to their constituents that, sorry, they did not take the decision on that application, "it was the officers".

In other words, people would elect councillors who would not be held accountable for the actions of the Council.

2.4 The principle should surely remain that every councillor has to be held to account for **all** the Council's work and actions and decisions.

2.5 The five issues listed in the Bill are considered to be unhelpful and confused and should be rethought. They appear to be based on the half-truths peddled by the less mature elements in the development industry:

(a) *That developers do not know whether their project will be dealt with under delegated action, or by Committee:*

All decisions are the decisions of the Council, and it should be of no concern to the developer how the Planning Authority arrives at its decision.

There is a significant risk of pressuring officers during "negotiations", and of possible corruption, and being able to 'refer up' the decision to the Committee is an essential safeguard for officers.

(b) *That too much time is spent on considering compliant schemes:*

Agreed, but the planning system has been overloaded (by HMG, no doubt with the best intentions) over the years with complexity and matters that should not be part of planning. The removal of these needs to be addressed (see below).

(c) *That Councillors do not follow Officer advice:*

But this option is an essential and must remain otherwise the councillors will become a rubber stamping irrelevance.

(d) *That Councillors have a poor understanding of planning:*

Councillors are in place to act as "the ordinary person", and not as pseudo town planners. They are given the professional advice, but they must be free to act, otherwise they have no role. Having a planning system entirely run by unelected professional planners would place both councillors and planners in an intolerable position.

(e) *That Councillors do not understand the implications of a refusal:*

Not so – they have the advice of the Planning Officer, the Chief Executive and the Legal Officers.

### Suggested action:

2.6 The Bill should require all Local Planning Authorities (LPAs) to set up delegation arrangements. (Many already do this of course). This would speed up the process. But the three essential operational criteria should be spelled out in the Bill, as follows:

(a) To ensure that local councillors continue to take full responsibility for all Council decisions, officers must only be allowed to take a delegated decision if they genuinely believe that the decision they are about to take, would be the decision taken had the application gone before the Planning Committee.

(b) And, if there is any doubt, then the officer refers the application 'upwards' to the Committee for decision.

(c) Additionally, any councillor should have the right to request that a particular application should go before the Committee and not be dealt with by delegated action.

2.7 In that way, the councillors retain complete control of, and responsibility for, all planning decisions.

### **3.0 DEVELOPMENT AND THE NATURE RECOVERY FUND: RESTORATION BY DEVELOPERS:**

3.1 The Bill aims to set up a Nature Restoration Fund, and Natural England is to produce Environmental Development Plans (EDPs) on significant nature protection development sites.

3.2 The nature conservation measures aim to outweigh the negative effect of development.

3.3 A simple charging schedule will be payable by developers to Natural England, replacing the current cumbersome and complex Biodiversity Net Gain (BNG) system, which will be scrapped.

#### **Comment:**

3.4 Although the basic aims behind the recently introduced BNG scheme were no doubt admirable, its complexity, and the requirement for LPAs to monitor distant sites for some 30 years was unrealistic. A simpler replacement therefore is to be welcomed.

3.5 However, the continuing net loss of **trees** in urban areas needs an individual approach, centred on the locality, and should firmly be kept quite **separate and independent** from any new "nature restoration system".

#### **Suggested action:**

3.6 Any "nature measurement system" should be simple to carry out, and easy to understand.

3.7 Natural England should be required to ensure that the loss of nature and habitat is compensated for to some extent locally in their EDPs, particularly in urban areas, and Nature Restoration should not all be "exported" to distant countryside sites.

3.8 But the **loss of trees** in development sites in urban areas is of high local concern, so their protection and replacement locally **should continue independently** of any new national "nature restoration" EDP scheme.

3.9 Independent Tree Groups are claiming that in urban areas, more trees are being lost than replaced.

3.10 It would be therefore helpful if the Bill could set out the **simple national policy guidance on such tree replacement**, with the basis being that new trees of **equivalent trunk girth** should be the default replacement for lost trees. It is known as the "Luckhurst Principle", named after the late Trees & Parks Manager in the LB Merton.

3.11 With double the amount in conservation areas, and treble where the trees involved are covered by TPs. And with an embargo on the felling of all Veteran trees.

3.12 As an example, if a tree on a development site with a trunk girth of say 1m is to be felled, then it should be replaced by (say) 8 new trees, each with a trunk girth of 12-14cm.

3.13 If (as is normal in urban areas) the development site is not large enough to accommodate all the new trees, then the site developer gifts the new trees or the finance to the Council/Planning Authority to plant locally. Such a system is easy to operate, easy to check.

3.14 The discredited "Mature tree replaced by a single sapling" approach as now, will then be superseded.

3.15 Financially, the additional cost to the developer is not large, and is usually easily accommodated in the normal “landscaping” budget.

### **COMPULSORY PURCHASE:**

4.1 The Bill proposes that the compulsory purchase of privately-owned land for development is to be based on current land value, rather than future hope value.

#### **Comment:**

4.2 The enormous increase in land value from say agricultural land to development land is obviously a major political question, and “land value capture” (or “betterment”) was put in place in the 1947 T&CP Act but was subsequently dropped.

4.3 Anecdotally, developers and others have been buying agricultural and “protected” land in potential development areas for many years in the hope that the future planning designation would change. The thinking presumably being that it was better to spend surplus profits on some low value land holdings with perhaps some very long-term potential, than to pay tax.

#### **Suggested action:**

4.4 If land value capture is to be brought in, to support better planning outcomes, then:

(a) if the setting of the compensatory payments is to be based on the existing use value, then a suitable **additional sum** (50% or more?) should be added to compensate the site owner for the disturbance.

(b) HMG should retain powers to ensure that a Planning authority does not misuse the CPO power (eg by selling off the acquired land for greater sums later: cf the Crichel Down case 1954).

### **PUBLIC CONSULTATION:**

5.1 Councils and developers (and perhaps even Governments!) go through the motions, but there is little public confidence that responses to some consultations are taken on board.

5.2 Currently, consultation is mostly seen by the public as a charade, which is most unsatisfactory, and it generates negative rejection of schemes, and a distrust of planning and of local government.

5.3 But many public contributions are based on deep local knowledge, and these should be seen as assets.

#### **Suggested response:**

5.4 The aim should be to move away from minimalist token “consultation”, and towards a more genuine “public involvement” in planning. **There is a major opportunity for the Bill to promote this approach.**

5.5 Rather than a Council “consulting” with the public after the finished scheme is produced, as now, public groups should instead be actively involved in the **evolution of the scheme** from the beginning. This should be the model.

5.6 The same approach should be required from developers of significant local projects.

5.7 Round table creation of project design with local groups, the Council and others, should be the aim.

5.8 Conservation Area Consultative Committees and Design Review Panels have been local examples of how to generate positive ideas and help the creative evolution of projects. And they were independent, which helped the public to have some confidence that their responses and ideas could be treated with respect.

## PLANNING INDEPENDENCE:

6.1 The Bill does not deal sufficiently with the lack of independence, and the professionalism of the planning system in local Councils.

6.2 As an example, a local (London) Borough (a £500 million a year business):

(a) has no designated Chief Planning Officer

(b) has no defined planning department

(c) had no MRTPI qualified town planners at all in the planning service (*freedom of info request response 2024*).

6.3 So “planning advice” might well be given to a Council by an unqualified officer, who may have other responsibilities and preferences, and any professional town planning view may be marginalised.

6.4 Is it reasonable that professional planning advice is being given to a Council by the unqualified? (See also the comments in item 2 above on delegated decisions). Would this be tolerated in other fields, say medicine?

## Suggested Response:

6.5 The Bill should specifically require that all Local Planning Authorities should have a planning-qualified and independent and designated Chief Planning Officer.

6.6 And that there should be a defined Planning Department. Remembering that planning is far more than development control: environmental and urban design, climate change and the retrofit agenda - no other part of local Councils can handle and drive these major issues.

## COMPLEXITY IN PLANNING:

7.1 One of the reasons for the many delays in the planning process is that over the years, HMG has loaded unnecessary “stuff” onto the system (with the best intentions) that all takes up time. Another reason is that there are not enough skilled planning officers, mainly because Councils prioritise the financing of Social Services and Education over all other local services.

7.2 The Bill should take the opportunity to strip out what is not needed, and what should not be relevant to planning. The Planning process should be kept as simple as possible and concentrate on the basics.

7.3 Planning seems unfortunately to have been moving towards being a “catch-all” system, complex, time consuming, expensive and impenetrable to the general public. Local Plans of 600 pages and 100-page shopfront guides (The Society’s version is on one side of A4) are typical.

7.4 As an example, we have (so-called) viability statements: which are being used to undermine proper planning. Local Plans which (rightly) require eg 30% Social Housing and 20% Shared Ownership have been agreed and formally adopted after independent examination but are undermined by these viability assessments.

Checking the figures takes forever, and who (other than the developers themselves) have ever seen the **real figures** after 5 or 10 years of operation? They are never published, because of “commercial confidentiality”.

7.5 Without such independent verification, no-one should give “viability” any “planning” consideration. It should not be part of the planning system and should be scrapped forthwith. Viability statements are indeed valuable for the developer, but should stay private, in their files. If planning permission is granted, and the market then changes, the developer holds back until market forces are back in its favour or drops it and submits a different scheme. Once the Local Plan Policy is approved, then the development industry needs to work within the Policy parameters. At the moment we have stated Policies in the Local Plan which the public sees subsequently being set aside by these unverified viability statements. The Plan says one thing, what gets approved is another. This is intolerable, and brings planning into disrepute. The requirements in the Local Plan for each type of social housing should be mandatory.

7.6 There is also the legal decision that land ownership and restraints on land etc are now matters to be considered by the planning system, contrary to the long accepted (and surely correct) HMG position.

7.7 The recently introduced Biodiversity Net Gain (BNG) system is another case, causing developers significant extra expense and delay. Introduced with no doubt good intentions, its projected scrapping (see 3 above) and replacement by a much simpler system is to be welcomed.

7.8 Design & Access (D&A) Statements, introduced to encourage scheme architects to explain their design process, have degenerated into lengthy exercises in self-promotion, justifications, and the quoting of local “precedents”. Not enough aid the hard-pressed planning Officer (or the local people) assess the merits of the application. Photographs of the street scene are useful, but the “access” element is largely useless. It would be helpful if D&A Statements could instead be replaced with an **Executive Summary**. This would encourage the applicant to produce a much shorter and more useful document, helping those who review the planning application to understand what is proposed.

7.9 The planning system should concentrate on the basics of urban design: building line, street scale, height, gaps, daylighting and privacy protection to neighbours, trees, energy and so on, rather than “architecture”. Town planners (and councillors) are not trained designers, and references in Local Plans to the general need for “high architectural quality” are unhelpful. The planning system designs the town, the architect designs the building.

7.10 Lengthy “Design Codes & Guides” produced by well-meaning Councils are either never read, or not understood by potential applicants, and achieve little. Basic design guidance is only of value if it is succinct. Elaborate design codes are seen by some as a move towards “tick-box planning permissions”, where the applicant can self-certify that they have met the planning criteria.

#### **Suggested Response:**

7.11 The Bill should therefore remove viability from the planning process, replace/rename D&A Statements, and reaffirm that matters of land ownership etc are not to be considered by the planning system.

7.14 The Bill should also take the opportunity to steer councils away from the long-winded and often impenetrable Local Plans and other documents, into a far leaner and more accessible document base.

#### **CONCLUSION:**

8.1 The Society thanks the Committee for the opportunity to make this submission, and hopes that it will help in the production of the Bill.

Yours faithfully

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Wimbledon Society Planning and Environment Committee