

Sevenoaks Town Council
Notes of the (Virtual) Meeting held on Wednesday 30th September 2020
To consider the Government's Consultation Documents on
Planning For the Future & Transparency and Competition: Data and Land Control

Cllr K Bonin	Present	Cllr N Busvine OBE, Mayor	Present
Cllr S Camp, Chairman	Present	Cllr Dr M Canet	Present
Cllr A Clayton	Present	Cllr A Eyre	Absent
Cllr V Granville Baxter	Apologies	Cllr R Hogarth	Apologies
Cllr L Michaelides	Apologies	Cllr T Morris Brown	Absent
Cllr Mrs R Parry	Present	Cllr R Parry	Present
Cllr R Piper, Vice Chairman	Present	Cllr S Raikes	Present
Cllr C Shea	Absent	Cllr E Waite	Apologies

In Attendance: Town Clerk and Planning Committee Clerk

Meeting Commenced: 7.00 p.m.

Meeting Concluded: 8.54pm

228. Declarations of Interest

No Declarations of Interest were made.

229. Government Consultation: Planning for The Future.

Committee members received and considered the Ministry of Housing, Communities and Local Government consultation on Planning for the Future.

RESOLVED: To forward the following responses:

Please note information below is using the Consultation Paper's question numbering.

Q1. What three words do you associate most with the planning system in England?

- Cumbersome
- Local
- Developer Led

Q2. Do you get involved with planning decisions in your local area?

Yes, as a statutory consultee (Town Council).

(a). If no, why not?

n/a

Q3. 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 the future?

Other – Formal notification as a Statutory Consultee, important this is retained. It is also believed that neighbour consultation by letter is important to be retained.

Q4. What are your top three priorities for planning in your local area?

- Biodiversity and action on climate change
- Supporting the local economy
- More or better local infrastructure

Supporting comment – As a representative local council all of the options are vital to the town, but forced to pick just 3.

Q5. Do you agree that Local Plans should be simplified in line with our proposals?

No

Simplifying Local Plans into 3 broad categories would limit the localism of the Local Plans. A move from localism towards centralisation would be detrimental as Local Plans must meet the needs of the locality. The process should be simplified but not the Local Plan.

Q6. Do you agree with our proposals for streamlining the development management content of Local Plans, and setting out general development management policies nationally?

No

Need to make decisions locally to meet local needs. Through the Neighbourhood Development Plan, Local Development Character Assessments.

Q7. 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?

No

Nationally environmental impacts will vary greatly, need to have local input to address the local needs of infrastructure and economy.

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

A duty to liaise and collaborate with all relevant bodies on infrastructure with cross boundary projects, as in the current legislation of the Local Plan.

Q8. (a) Do you agree that a standard method for establishing housing requirements (that takes into account constraints) should be introduced?

No

Local Planners are better equipped and more knowledgeable than centralisation. Need to protect sustainability of local areas.

(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

There are many other local and national reasons for demand not just related to number of houses.

Q9. (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

Automatic permission implies a lack of local influence. Need to provide the appropriate local housing, therefore the decision must not be granted without local approval. Need to act in the interest of the local green space, local economy, locality and residents.

(b). Do you agree with our proposals above for the consent arrangements for Renewal and Protected areas?

No

As outlined in Q9(a) elected representatives need to remain involved.

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

No

Unless supported by a Neighbourhood Development Plan brought in through referendum to ensure local involvement.

Q10. Do you agree with our proposals to make decision-making faster and more certain?

No

Unless local consultees are part of the decision-making process and it is not at the expense of the creativity, beauty and good designs. Should not be at the expense of local authorities proper due consideration of planning applications.

Q11. Do you agree with our proposals for accessible, web-based Local Plans?

Yes

Providing methods are used to allow for all-inclusive accessibility.

Q12. Do you agree with our proposals for a 30 month statutory timescale for the production of Local Plans?

Yes

Does need to be a quicker time scale, providing that it does not jeopardise the two consultation periods (the initial and final consultation). Both Local Plan and Neighbourhood Plans should be treated the same manner – either subject to referendum or not subject to referendum.

Q13. (a) Do you agree that Neighbourhood Plans should be retained in the reformed planning system?

Yes

Should not just be retained but they should have a stronger role in the overall system. Unless the Planning Authority can find a good reason not to include a Neighbourhood Development Plan then it should be included for a more localised approach.

(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?

Increased financial assistance.

Q14. 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

Does need to be a greater emphasis, with the further measures of a financial penalty for not building and chargeable Council Tax. CIL should also be payable on planning approval.

Q15. What do you think about the design of new development that has happened recently in your area?

Other

Inappropriate and inconsistent development due it being led by Planning officers not the needs of the locality.

Q16. Sustainability is at the heart of our proposals. What is your priority for sustainability in your area?

Other

As a council our priority is Zero Carbon and to protect the Green Belt.

Q17. Do you agree with our proposals for improving the production and use of design guides and codes?

No

Plans under national guidance must be developed locally. Local design guides need to be at least as important as national framework and generated by local design boards.

Q18. 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?

No

Would support national minimum standards and each planning authority should have an officer for design and place-making. The national design codes should be easy to understand and make a local provision.

Q19. Do you agree with our proposal to consider how design might be given greater emphasis in the strategic objectives for Homes England?

No

Would support national minimum standards and a national body that helps to co-ordinate and support the local teams. It should not take priority over the local design.

Q20. Do you agree with our proposals for implementing a fast-track for beauty?

No

Unless the decision of what constitutes beauty is a local one, to protect against a fast-track being exploited.

Q21. When new development happens in your area, what is your priority for what comes with it?

Policies and recommendations in the Neighbourhood Development Plan.

Q22. (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?

No

CIL must be set locally because infrastructure costs vary widely nationally. It is essential that CIL is retained in the local community where the development is taking place as a right not as a gift.

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

Set locally

Please see answer as in (a)

(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?

Same amount overall

Please see answer as in (a)

Also needs to be consolidated into a vehicle which includes and incorporates the current CIL processes and allocation.

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

No

This is not a practical suggestion.

Q23. Do you agree that the scope of the reformed Infrastructure Levy should capture changes of use through permitted development rights?

Yes

Where there is a major increase in value or a substantial increase in intensity of use then CIL should be payable.

Q24. (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

Continue with affordable housing provision but would like to see more according to the local needs.

(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?

Either option is suitable. Dependent on size of the development. Need to maintain the amount however that is coming to the local community to enable the local infrastructure to be improved.

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

n/a

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

Yes

There should be minimum requirements, e.g. room size, light, windows, air quality, lifetime homes, etc. The document focuses heavily on beauty but not on utility.

Q25 Should local authorities have fewer restrictions over how they spend the Infrastructure Levy?

Yes

Planning authority should be able to keep some of the CIL money to be used on improved infrastructure. However CIL money should not be used to subsidise Council Tax but should be ring-fenced for their own infrastructure needs.

(a) If yes, should an affordable housing 'ring-fence' be developed?

Yes

Need more social housing.

Q26. Do you have any views on the potential impact of the proposals raised in this consultation on people with protected characteristics as defined in section 149 of the Equality Act 2010?

The document does not reflect the need for creating a balanced community to reflect the local needs of a mixed community. The proposals support First Homes but do nothing for disabled people and Lifetime Homes and do nothing to promote local needs mix of housing by encouraging, say , downsizing , to free up larger homes for families. Lifetime homes could make better use of housing stock.

230. Government Consultation: Transparency and Competition.

Committee members received and considered the Ministry of Housing, Communities and Local Government consultation on Transparency and Competition.

RESOLVED: To forward the following responses:

Please note information below is using the Consultation Paper's question numbering.

Q1. The Public Interest

Do you think there is a public interest in collating and publishing additional data on contractual controls over land?

Yes

The process for land registration should be clear, efficient and transparent.

Q2. Rights of pre-emption and options

(a) Do you think that the definition of rights of pre-emption and land options in the Finance Act 2003, s. 4616 is a suitable basis for defining rights of pre-emption and options that will be subject to additional data requirements? Please give reasons.

Do not feel competent to answer the question without professional advice from property lawyers.

(b) Is the exemption for options and rights of pre-emption for the purchase or lease of residential property for use as a domestic residence sufficient to cover: • options relating to the provision of occupational housing and • shared ownership schemes? Please give reasons.

Do not feel competent to answer the question without professional advice from property lawyers.

(c) Are there any types of rights of pre-emption or options that do not fall under the scope of the definition in the Finance Act 2003, s. 46? Please give reasons

Do not feel competent to answer the question without professional advice from property lawyers.

Q3. Estate contracts

Are the tests set out above sufficient to avoid inadvertently capturing transactions not related to the development of land? If not, please give examples.

Do not feel competent to answer the question without professional advice from property lawyers.

Q4. Other contractual controls

(a) Are there any contractual arrangements by which control can be exercised over the purchase or sale of land, which should be included within this regime and which are not rights of pre-emption, options or estate contracts? Please give examples

Condition for planning permission should be that the beneficial owner is registered and anyone with a lease interest.

(b) If so, do you consider them (i) an interest in land (interests that are capable of being protected by way of a notice on the land register); or (ii) not an interest in land? Please give reasons.

Do not feel competent to answer the question without professional advice from property lawyers.

Q5: Data requirements

(a) Are there any data fields that (i) should; or (ii) should not be subject to additional data requirements? Please give reasons.

Do not feel competent to answer the question without professional advice from property lawyers.

(b) Are there any data fields that (i) should; or (ii) should not be placed on the land register? Please give reasons.

Do not feel competent to answer the question without professional advice from property lawyers.

(c) Are there any data fields that (i) should; or (ii) should not be included in a contractual control interest dataset? Please give reasons.

Do not feel competent to answer the question without professional advice from property lawyers.

(d) Are there other data fields that should be collected? Please give reasons.

Do not feel competent to answer the question without professional advice from property lawyers.

(e) Do any of the data fields give rise to privacy risks? Please give reasons.

Do not feel competent to answer the question without professional advice from property lawyers.

6. Contractual conditions

(a) Are there any data fields that (i) should; or (ii) should not be subject to additional data requirements? Please give reasons.

Do not feel competent to answer the question without professional advice from property lawyers.

(b) Are there any data fields that (i) should; or (ii) should not be placed on the land register? Please give reasons.

Do not feel competent to answer the question without professional advice from property lawyers.

(c) Are there any data fields that (i) should; or (ii) should not be included in a contractual control interest dataset? Please give reasons.

Do not feel competent to answer the question without professional advice from property lawyers.

7. Legal Entity Identifiers

Should legal entities that are beneficiaries of contractual arrangements be asked to provide a Legal Entity Identifier? Please give reasons

Do not feel competent to answer the question without professional advice from property lawyers.

8. Data currency

(a) Should beneficiaries be required to provide updated information on: • variation • termination, or assignment or novation? Please give reasons.

Do not feel competent to answer the question without professional advice from property lawyers.

(b) Are there other ways in which data currency could be maintained?

Do not feel competent to answer the question without professional advice from property lawyers.

9. Accounting treatment

If your organisation is required to produce annual accounts, when are: (i) rights of preemption; (ii) options; and (iii) estate contracts recognised on the balance sheet? Please give reasons and state the accounting standard used.

Do not feel competent to answer the question without professional advice from property lawyers.

10. Existing contractual control interests

(a) Should the requirement to supply additional data be limited to: (i) new contractual control interests only; or (ii) all extant interests? Please give reasons.

Do not feel competent to answer the question without professional advice from property lawyers.

(b) How long should beneficiaries of an extant contractual control interests that is varied, assigned or novated be given to provide additional data before losing protection: (i) three months; or six months?

Do not feel competent to answer the question without professional advice from property lawyers.

11. Current beneficiaries

What are the best ways of informing current beneficiaries of the need to provide additional data? Please give reasons.

Do not feel competent to answer the question without professional advice from property lawyers.

12. A digital process?

Should the provision of additional data prior to the application process for an agreed notice be exclusively digital (with assisted digital support if required)? Please give reasons.

Do not feel competent to answer the question without professional advice from property lawyers.

13. Certification

Should beneficiaries of contractual control interests with a duty to produce annual accounts be required to certify that all relevant interests have been noted? Please give reasons.

Do not feel competent to answer the question without professional advice from property lawyers.

14. Restrictions

(a) Should beneficiaries of contractual control interests be required to obtain an agreed notice before they could apply for a restriction? Please give reasons.

Do not feel competent to answer the question without professional advice from property lawyers.

(b) Should the protections of restrictions placed on an un-noted contractual control interest be (i) limited; or (ii) removed? Please give reasons.

Do not feel competent to answer the question without professional advice from property lawyers.

c) If the Government accepts the Law Commission's recommendation on restrictions, should contractual control interest fall into the category of interest that cannot be capable of protection by way of a restriction? Please give reasons.

Do not feel competent to answer the question without professional advice from property lawyers.

15. Alternative options

(a) Should a mandatory system be introduced whereby the beneficiary of a contractual control interest would, where it is possible to do so, be required to note their interest with HMLR? Please give reasons.

Do not feel competent to answer the question without professional advice from property lawyers.

(b) If so, how should the system be enforced? Please give reasons.

Do not feel competent to answer the question without professional advice from property lawyers.

16. Current practice

(a) If you are a beneficiary of a right of pre-emption, option or estate contract, please indicate how you protect your interest.

Do not feel competent to answer the question without professional advice from property lawyers.

(d) What factors influence your choice? Please give reasons.

Do not feel competent to answer the question without professional advice from property lawyers.

17. Data collation and provision

(a) Are there any data fields in Annex A that contracting parties would not have readily to hand? Please list them.

Do not feel competent to answer the question without professional advice from property lawyers.

(b) What is your estimate of the time needed to provide the additional data?

Do not feel competent to answer the question without professional advice from property lawyers.

(c) Does your entity hold a Legal Entity Identifier?

Do not feel competent to answer the question without professional advice from property lawyers.

18. Data currency

What additional work (over and above the time and cost of preparing annual accounts) would your organisation need to undertake to identify contractual control interests that needed to be updated?

Do not feel competent to answer the question without professional advice from property lawyers.

19. Certification

What additional work (over and above the time and cost of preparing annual accounts) would your organisation need to undertake to certify in your organisation's annual accounts that all relevant contractual control interests had been noted on the land register where the land is registered?

Do not feel competent to answer the question without professional advice from property lawyers.

20. Economic impact

What impact, if any, do you think that these proposals will have on the English land market (residential and commercial)? Please describe the effects and provide evidence.

Do not feel competent to answer the question without professional advice from property lawyers.

21. Costs

What impact, if any, do you think that these proposals will have on the costs incurred by participants in the English land market (residential and commercial)? Please describe the effects and provide evidence.

Do not feel competent to answer the question without professional advice from property lawyers.

22. Identifying and understanding contractual control interests

(a) Can you estimate the amount of (i) time and (ii) money that you have spent on identifying land affected by a contractual control interest?

Do not feel competent to answer the question without professional advice from property lawyers.

(b) What is the source of your information?

Do not feel competent to answer the question without professional advice from property lawyers.

(c) Can you estimate the amount of (i) time and (ii) money that you have spent on seeking professional advice on exactly how a contractual control interest affects a piece of land?

Do not feel competent to answer the question without professional advice from property lawyers.

23. Market impact

(a) If you are a small or medium enterprise (SME) builder or developer, do contractual controls hinder your ability to assess the viability of a local market? Please give reasons.

Do not feel competent to answer the question without professional advice from property lawyers.

(b) If you are an SME builder or developer, does a lack of freely accessible and understandable data act as a barrier to you entering the market? Please give reasons.

Do not feel competent to answer the question without professional advice from property lawyers.

24. Trust in the planning system

(a) Do you think that a lack of accessible and understandable data on contractual controls makes it more difficult for local communities to understand the likely pattern of development? Please give reasons.

Yes

Need maximum transparency and clarity to properly protect local communities.

(b) If so, to what extent does it undermine trust and confidence in the planning system: (i) not much; (ii) somewhat; (ii) a great deal? Please give reasons.

Do not feel competent to answer the question without professional advice from property lawyers.

25. Public Sector Equality Duty

What impact, if any, do you think that these proposals will have on people who share protected characteristics? Please describe the effects and provide evidence.

Your evidence

Do not feel competent to answer the question without professional advice from property lawyers.