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Reflections of a new Community Council on the local planning and development control processes

The following is a reflective account of this new Council's experience of the planning process which it would like to pass on as part of the consultation on the review of planning system.

Summary report

Part 1 – We discuss generally, the Council role in the local planning and development control systems and try to understand the distinctions between the roles of the Local Planning Authority (LPA) and the Council (or its Planning Committee) especially in their relationships with key partners and developers. The obvious questions are about whether the system is sufficiently transparent and whether the best interests of the community we represent are served by this arrangement. Our conclusion is that

- a) We are unclear about the degree of independence of the LPA officers
- b) Local Councils have a disproportionately weak voice vis-à-vis first and second tier local government
- c) We should be thinking about how the Community's voice could be strengthened in the future

Part 2 – We reflect on the Local Plan

Our conclusions were that the Plan

- a) needs to be simplified and its length, drastically reduced
- b) must be hugely expensive to produce
- c) its value for money is questionable
- d) housing and business targets appear to be determined by pre-set formulae and are highly questionable
- e) relies on targets that are affected by a large range of short and long term social and technological behaviours, unforeseeable events and macro-economic policy
- f) is parochial in nature and predicated on geographical boundaries which may bear no relevance to social behaviour and business need
- g) generally diminished aspects of "feel" or "spirit of the place"

Part 3 – We reflect on the Planning Committee decision and 2 key issues that were "on top" for the Community Council

Our conclusions were that

- a) Had discussions featured the cumulative impact on our community of several "big ticket" developments in the same area at the same time, members of the Planning Committee might have been persuaded to take greater account of their concerns and needs.
- b) The domination of first and second tier local government in the development control process (see Part 1) manifested itself on decisions on developer contributions (Section 106)

- c) Whilst acknowledging the meeting was the Council's first ever virtual meeting members of the Planning Committee appeared overwhelmed by the complexity of the application and although guided well by Planning Officers, our lasting impression was one of significant debate only on a relatively few matters such as the design of the buildings or the use of Section 106 contributions.

Taking it all together

We have concluded that whilst it has its strengths, on balance, the current planning model needs review.

Our argument for this is based not only on issues of transparency but also on a perceived vicious cycle which negatively impacts on key areas such as land prices and community voice.

We saw a cycle that started with the Council agreeing the content of a complex volume of largely indigestible, and possibly fallacious, data contained in an evidence based Local Plan.

The Plan details the tranches of land that can be developed. The power to determine the amount of land and its use rests with the same organization

By extension this means the organization effectively gifts itself the power to influence land prices

Whilst one could argue that local control of land supply is welcome in some respects, the other view (our view) is that it has helped to create a shortage of developable land and as a result, an acceleration of land values which, inter alia, has had a negative impact on the ability to satisfy the demand from different community groupings for appropriate and affordable accommodation. This in our view has contributed to a tenure imbalance

The same body then gifts itself the ability through the development control system to release land and to influence projects and infrastructure through developer contributions which can and often does, include an affordable housing component

We find it hard to accept that affordable housing provision truly satisfies the original intention of Section 106 which is to address the unacceptable impacts of developments on the community affected.

It is probably too strong to claim that the LPA has a stranglehold on the entire system of planning locally but as the elected body closest to the community, we can say that, within our limited experience it feels like the community loses out on several levels

- its limited ability to influence the final outcome of the Local Plan
- its influence over the use of developable land
- its total inability to prevent the negative impact of land value increases
- its influence over individual planning applications
- its influence over such matters as "feel" and "spirit of the place"
- its limited ability to influence priorities for developer contributions

In our view the review should not focus primarily on maintaining the status quo but on fundamental change that will encourage a subtle shift of power from State players to community.

The big questions, we feel, are

- a) **What the future role and influence of the LPA should look like - eg longer arms' length from the Council or independent of it or a provider of services to several Councils in a wider area**
- b) **Whether a simplified system of zoning can offer opportunities to address some of the imbalances we identified above**
- c) **Whether simplified zoning will (or should) will become the catalyst for more open market economics**

How we came to that conclusion

Background

South Willesborough and Newtown Community Council in Ashford, Kent is a new, urban parish formed in May 2019. In its first year, Ashford Borough Council presented it with a highly complex, multi-faceted planning application to consider, comprising 300 homes, 4 film studios, an 18-storey hotel, multi-storey car park, commercial and catering facilities and ancillary buildings, all on a single, disused, brownfield site. Responding as a consultee brought the Community Council in to contact for the first time with complicated development control and local planning issues. Up until that point the Council had only been consulted on applications of a routine nature and had had no input in to the Local Plan.

To comment meaningfully on the housing and business related aspects of the application, we found it necessary to refer to the recently approved Ashford Local Plan to 2030.

Part 1 – Commentary on the overall system

Overall System Reflection 1 – Organisational Relationships

On reflection, we found it difficult to determine whether we, as a Council, were being consulted on the application by a Planning officer as an “honest broker” of the LPA or by the Council per se. All planning and policy planning staff we spoke to were pay-rolled by the Council of course but their relationship to it – especially that of the Planning Officers is unclear, especially when they also negotiate with the developers – and often in secret – quite rightly, due to commercial sensitivity concerns.

Overall System Reflection 2 – A Pecking Order?

In essence, we saw the Planning Officer as the link between the Council, consultees, key partners (Highways) the developer and other stakeholders, eg Police, Health Authorities
When we were first consulted it was clear that key partners had already had significant discussion on both the form of development and developer contributions. As Section 106 agreements are to effectively compensate the community, it seemed unreasonable that the Community had not been consulted earlier. Our impression was of a system, dominated by the first and second tiers of local government which led to concerns about priorities.

Overall System Reflection 3 – Council v Community v Developer objectives

We recognized that each of the stakeholders had different objectives and we understand that the role of the Planning Officer is crucial in bringing them together.

Our experience of the process was that the decision to approve the application appeared to largely satisfy the Council's and the Developer's objectives but the Community's key objectives to retain the sense of place, provide an appropriate transportation infrastructure and an affordable component were not. It led us to believe that the Community should be given greater influence over such issues

Overall System Reflection 4 – Transparency and scrutiny

We understand that items of commercial sensitivity should not be shared but it seems that the more complex the development, the more secretive the negotiations need to be. Transparency should be a fundamental feature of public life and our experience is that the current system which

is perfectly transparent for more minor applications is not as transparent for the bigger, more complex ones. Ergo, we think that any system that can lead to more open public scrutiny should at least be examined and wholesale change introduced if necessary.

That said, it is difficult to see how wholesale changes can be made without changing the current planning zoning structure, the role and reporting structure of LPA Officers and the role of the community in planning matters.

Part 2 - Commentary on the Local Plan

Local Plan Reflection 1 - Do things really need to be so complex?

The first impression was a document of 300 plus pages, prepared piecemeal over a number of years, that was virtually impossible for anyone in a short space of time to get to grips with all the data and understand it. It was not an easy or succinct read and it gave us the impression of a “catch all”

Local plan Reflection 2 - We feel sorry for the Policy planners

Is part of the problem for that that Planners have to address so many different issues? Are they being asked to consider too many different interests and/or be ultra risk-averse to prevent potentially damaging legal interventions?

Local Plan Reflection 3 - What did the content of the Local Plan say to us?

Whilst we could locate relevant Council policies easily, it was unclear, due to the sheer weight of information, how the policies had been derived. Several seemed contentious. We also found ourselves questioning the excessive cost to the taxpayer vis-a-vis the value of the 300 plus pages of minutiae it contained.

Local Plan Reflection 4 - Is housing and commercial need determined soundly?

Is it really possible to calculate housing and business need accurately 15 years hence especially with the current pace of social and technological change and the ongoing, unknown impact of Covid19 and Brexit. We would say no.

One could argue that impact of technology and the resultant customer behaviour changes on town centres was not foreseen. Obviously there are other factors at play but there has to be a question mark, not only about the methodology but also the value of the lessons learned since. Of particular concern is the degree to which local authorities (like Ashford, we feel) which has already borne an unfair increase in housing will be forced to turn challenging housing targets in to impossible ones if the current baselines are used in future.

Local Plan Reflection 5 - If “feel” is considered to be an element of planning, it didn’t feel it was given sufficient weight

The Community Council found the Local Plan weighted more towards the quantity of housing and business rather than the quality of them or other factors such as the unsatisfied demand for e.g. affordable accommodation for young renters, key workers or the unskilled or the impact of gentrification on property values. Building a huge quantity of new homes appeared to take primacy. The effect on people and the spirit of the place appeared an afterthought

Local Plan Reflection 5 - Why does it have to be so parochial?

We understand the LPA has a duty to consult with neighbouring authorities on the plan and the argument for LPA control over developers in their area but how can we be assured that local plans truly reflect such things as workforce movement in and out of the LPA’s area?

Having expressed the concern we have for planners we can understand how a more holistic approach may not be well received. However, we have also commented on the impact of social and technological change and would query the value of a plan limited by a geographic boundary that may or may not be contiguous with other boundaries, the obvious one being the Travel to Work Area boundaries or reflect the true needs of a wider inter-connected area.

Moreover, we discovered the lack of an holistic approach in the consideration of the actual planning application which planners informed us should be treated on its own merits. It seems to be a major failing that the little picture takes precedence over the bigger one.

Local Plan Reflection 6 - On zonal planning

Clearly the current system relies on the LPA approving and defining the use of land on individual sites and moreover, as we observed above, on a questionable calculation of need. The new proposal is to simplify the system by introducing 3 new categories of development zones. Based on our limited experience, we would support any simplification but would ask - why 3? Would it not be possible to simplify it even further? - **just 2 defined zones where the presumption is either in favour of development or against it** would, prima facie, seem a plausible alternative

We associate the current system with excessive control - where the LPA largely controls the future use of the land (and in doing so we presume also controls land values) We see the dearth of affordable accommodation as a consequence of this as increasing land prices make affordable homes increasingly unviable. Moreover, it seems to us to increase reliance on section 106 agreements to provide the affordable component when the need for other community projects or infrastructure may be greater. We would therefore question the success of the current system at several levels and, therefore, the value of maintaining the status quo.

We will return to developer contributions in the next section

Local Plan Reflection 7 - On control

The local elected body should retain control over the local planning process but there has to be an argument for examining the umbilical relationship with LPA officers and the level of involvement of communities. Greater involvement by the community would in our view counter some of the arguments we put forward earlier that insufficient weight is given to “feel” or “spirit of the place” This would be especially true if the zoning structure is simplified such that the community has a bigger say in defining the type of developments that are acceptable

Local Plan Reflection 8- Did we have confidence that the Local Plan would help to deliver positive outcomes for our area?

We found this difficult to assess because assigning performance metrics to a service where the definition of success is possibly more subjective than other council services is tricky. The overriding feeling is one of a plan whose prime purpose is to meet government quantitative targets through specious housing and commercial outputs at the expense of more qualitative human and sense of place considerations.

Finally

it is difficult to see how local authority members have the will, time, experience and knowledge to question the findings and evidence base in the Local Plan, including the reams of data produced by Council-appointed consultants. Our concern is that such a large, complex and important document, which impacts over the longer term on every community in the LPA’s area is highly unreadable and only likely to be fully understood by a relatively small number of people.

Part 3 - The Planning Application

Application Reflection 1 - Cumulative impact

This application was one of the most complex in Ashford’s history. In its own right, its impact will be substantial. However, this was just one of several “big ticket” developments in the same area of the town.

The Community Council strongly urged the LPA to consider the cumulative impact on the place including as assessment of transportation and parking needs, the lack of infrastructure (GP surgery, education facilities etc). The LPA maintained it was only able to consider the application on its own merits. Whilst we understand the LPA’s position it is frustrating and slightly ironic when development control ignores the bigger picture. For example, Community Councillors felt new

medical services should be a priority – not just for the 600 new residents on the application site but for the much higher number of incoming residents on various sites within close proximity of each other. New GP facilities only featured as a deferred project – dependent on the developers' revenue generation.

The lack of a cumulative impact assessment is an unhealthy feature of Planning generally in our view and we would hope that such an assessment becomes a requirement in future.

Application Reflection 2 - Priorities for developer contributions

Whilst the Community Council was invited to comment as a consultee, it also felt that without a Community Infrastructure Levy arrangement in place, it should have had more of an opportunity to present the case on behalf of the community for a number of infrastructure improvements funded wholly or partly by developer contributions.

The final outcome was that the developer would agree to contribute to a number of projects identified predominantly by the principal councils whilst other projects, including those proposed by the Community Council, were given little consideration by comparison or deferred

In addition, the Borough council had already decided that, based on viability assessments, the developer would not be required to provide an affordable housing component.

We feel there is a strong argument for reviewing the system of developer contributions to ensure that communities most affected by the cumulative impact of large scale developments are adequately catered for and moreover, properly recompensed for the upheaval they endure.

In direct response to the White Paper questions

- 1) The three words we associate most with the planning system in England **are rigid, complex and anachronistic**
- 2) **Yes**
- 3) How would we like to find out about plans in the future –
All areas are different such that we think it's important that local planning authorities are required to produce a "community involvement contract" setting out the ways in which they engage with all groups and involve the public in planning applications and Local Plan preparation (and Neighbourhood planning proposals)
- 4) There are so many, but the 3 top priorities for planning in our local area **are affordable homes, preservation of the sense of place and better local infrastructure. The environment and action on climate change comes a close fourth**
- 5) Yes we agree that Local plans should be simplified.
A plan of 300 plus pages is simply overpowering, expensive and its value for money is questionable. The plan in our view needs to say in plain English what developments are allowed and what are not allowed in development zones. The current plan is replete with policies when simple development rules for the zones are arguably all that is needed. We see the Local Plan as an extension to the Neighbourhood Planning process and an opportunity for the community to proactively involve themselves from the outset by defining what would be acceptable (or not) in their area. This will help to preserve the sense of place. Moreover, the local plan could be the mechanism for defining key infrastructure needs and quality benchmarks for design. We see little benefit in developing individual site policies without greater emphasis on the infrastructure that will support them.
- 6) In respect of streamlining proposals for the development management content of local planning - **Not sure – we have little experience in this element of local planning and our first reaction is that setting national policies could undermine local differences and diversity. That said, we have come to the view that the current model of local**

planning needs to be less opaque (which in turn should speed up the system) and local communities given a proactive and meaningful role in future planning – rather than the feeling of being part of a tick box exercise and afterthought. This sits happily for us with digitisation proposals and the ability to reach different audiences quickly through a range of platforms.

- 7) **A)** In respect of the proposals to replace existing legal tests with a consolidated sustainable development test **Not sure – again as a new Council we have little experience but it seems to us that if the community is involved from the outset they will have a greater say in determining acceptable development in which case environmental impact would be a key determinant. We see environmental impact as one element of a consolidated sustainability test– the other two being the actual level of proposed new build and the preservation of the sense of place.**
- 7) **B)** How could strategic cross boundary issues be best planned for in the absence of a formal duty to cooperate?
Our view is straight forward – that the current network of LPA's is possibly outdated and where evidence suggests that the system could be more efficient and effective, that LPA's based on wider geographical boundaries are established – akin to the LPA's in existence in the National Parks/ Norfolk Broads for example
- 8) **A – do we agree that a standard method for establishing housing requirements should be introduced?**
Yes – to some degree because we feel LPA's don't have a strong track record in this respect. However, we are not truly convinced that a standard method would result in a less dubious outcome. Any standard method would need to factor in a range of societal and technological behaviour changes which would seem impossible over a long period of time
- 9) **A - Do we agree that that there should be automatic outline permission for designated Growth areas with faster routes for detailed consent?**
We understand the thinking but on balance would say no if the status quo is maintained largely because of the impact it could have on already inflated land values. The only beneficiary in our view would be the land vendor. The combination of zoning and a shift to a price-led land market could persuade us to change our view.
- B – We have no views**
- C – ditto**
- 10) Do we agree with the proposals to make decision making faster and more certain?
Yes – but think can only be achieved by turning the system on its head - involving the public at the earliest stages of planning shifting the concept of public participation to proactivity at the start of the process rather than reaction at the end of it.
- 11) **Yes – we agree to accessible web-based Local Plans subject to there being one adopted standard nationally for them**
- 12) A statutory 30 month Local Plan timescale?
Is this not linked to Q5?? Not sure – on the one hand a deadline would hone planners' minds and significantly save money but on the other it could lead to corner-cutting. If the status quo is maintained for Local Plans it seems unreasonable to heap more pressure on already under-funded Councils. It would be possible in our view if the Plan was fundamentally changed from one that defined the policies for a

myriad of individual sites to one that determined the broader rules for development (or non-development) in the various zones

- 13) **A- In principle we would support the retention of Neighbourhood Plans but they are very expensive to produce especially for smaller councils. We would question the need to spend large sums of money on them if their “bottom-up” concept is replicated through a Local planning process that proactively engages with the community at the outset to seek views on, and agree what is acceptable development in their area – and what is not**

B - See above answer

- 14) **Should there be a stronger emphasis on build-out? Generally we can find little in the White Paper about build-out. The inference seems to be that local authorities are to blame for slow build out but in our view it is unreasonable to expect underfunded councils to provide a full and effective planning service especially as the current planning model appears to allow developers greater opportunity to land-bank and “play the system” than it allows the Council to enforce**
- 15) **What do we think of the design of new developments that has happened recently? In our short experience we noted that Councillors at the Planning Committee meeting spent a lot of time discussing subjective design issues. Isn't it inevitable, given the increasing cost of land and developer contributions that they will cut corners and save money by using standard design softwares? We believe the blame for this lies with the current system that has forced land prices up. There is an expectation that design will be strong and innovative but we believe it is unreasonable to expect to build the quantity of homes required on increasingly expensive land and to have top of the range design. The answer, we feel, is to change the model to one that moves away from land micro-management**
- 16) **What is our priority for sustainability in our area? Without doubt, to reduce reliance on fossil-fuelled vehicles, encourage healthier lifestyles and plant more trees. It was disappointing that the LPA in our area dismissed the community's call for a revision of traffic management when the planning system offered it a good opportunity to do so. It called in to question the degree to which the community's aspirations were considered and exemplified the frustration of not having a proactive voice. One of our fundamental threads is to turn that around such that the community gets a proactive say on key issues that affect them notably the built and natural environment, sustainability and sense of place.**
- 17) **Do we agree with the proposals for improving the production and use of design guides? Yes in principle but we would query the reason for design guides if fundamental issues such as high land values and cuts in public funding are not addressed**
- 18) **Do we agree that a new body is established to support design coding and that each authority should have a chief officer for design and place making? For both – possibly to provide professional support to more proactive communities involved in the future local plan process**
- 19) **On how design might be given greater emphasis in the strategic objectives of Homes England – Frankly we have no idea what Homes England is, does or what its objectives are! Is this an educational issue for us or plain ineffective marketing??**
- 20) **On a fast-track for beauty Not sure – we don't really follow the Secretary of State's thinking that the beautiful deserves to be treated better than the ugly. The eye of the beholder is the key and the people who behold buildings most will be the community that lives with them.**

If there is a fast track it should be with community approval

21) What is our priority for what comes with new development in our area?

It all depends on what we see as “our area”. Are we talking parochially or in the wider context of planning in other areas that affect us. Our priority would be for a sensible and cumulative approach to infrastructure which can be achieved by creating wider LPA’s and elevating infrastructure to a key element in local planning

22) Should the Government replace the CIL and S106 with a consolidated levy charged as a responded proportion of development value.?

Not sure – a simplified system would sit happily with our views on simplifying the whole system. Our experience is that S106 contribution negotiations are dominated by the principal councils and used to promote their objectives or replace Government grant – at the expense of the community. We certainly don’t agree that affordable housing should be a priority for S106

We have no experience of CIL so cannot comment other than to say the concept of locally defined rates is sound and should be retained as a local prerogative

22b) Answered in above

22c) Not necessarily – we’d prefer the Government to support greater investment in infrastructure and not rely on private sector

22d) We consider it unwise to give Local authorities the power to borrow against the Infrastructure levy.

23) Do we agree that the scope of the reformed infrastructure levy should capture changes of use through permitted development rights?

We do have sufficient knowledge to answer this question

24 A Do we agree that we should aim to secure at least the same amount of affordable housing under the Infrastructure levy as at present?

No – affordable homes provision is the least acceptable use of developer contributions in our view. It needs a fundamental change in the current planning model to bring land prices down. Why burden developers with greater costs when they are already paying inflated prices for land?

24b) Should affordable housing be secured as an in kind payment towards the Infrastructure levy or as a “right to purchase” at discounted rates for local authorities.?

Of the two options – at a discounted rate for local authorities but neither would be our choice.

24c) If an in kind delivery approach is taken should there be mitigation against local authority overpayment risk?

We think it is unreasonable to burden the local authority with any risk

24d), 25 and 26 We are unsure- we don’t feel we have sufficient knowledge or experience to comment on these questions

Signed

Matthew Harris

Chair – Planning and Highways Committee

