**HOUSE OF COMMONS**

**HOUSING, COMMUNITIES AND LOCAL GOVERNMENT COMMITTEE**

**INQUIRY INTO THE FUTURE OF THE PLANNING SYSTEM**

**EVIDENCE OF HIGHFIELD RESIDENTS ASSOCIATION SOUTHAMPTON**

**Introduction**

Highfield Residents Association (HRA) covers Highfield and Portswood in central Southampton. It is the largest and most active residents association in the City with several hundred paid-up members. Dealing with planning policy and applications takes up the biggest proportion of the Association’s time and resources. HRA therefore welcomes this opportunity to submit its evidence to this timely investigation. The Association would in passing refer to the evidence submitted by its representative body, the National Organisation of Residents Associations (NORA) to which this paper represents a local supplement.

In summary, there are some proposals in the recent White Paper that HRA can support – the strengthening of enforcement powers and sanctions (provided local authorities also have more resources), greater digitalisation (with safeguards), and the enhanced emphasis on design. But the Association does not think that – taken as a whole – the White Paper proposals will achieve the stated outcomes. In particular, the Association considers that the diminution of the role of the local community envisaged in the proposals will not only weaken the planning system but is also in clear breach of the Localism Act which provides for further decentralisation to local councils, communities and individuals. Finally, there is the issue of whether the Government should be proceeding with such wide-ranging changes at a time of national emergency.

The remainder of this document sets out the Association’s responses to the Committee’s Questions (1-5).

**Question 1**

HRA considers that the Government’s proposals will weaken the planning system (and local democracy) by making it harder for local communities, individuals and organisations to influence local planning decisions and developments. At the same time, there are changes that could be made that would make the system fairer and less open to exploitation by unscrupulous developers and ridicule and disrepute amongst third parties. However to be fully effective these would need to be accompanied by greater resources for the implementation of decisions (see Annex).

**Question 2**

The main reason for the shortage of, especially, homes for affordable rent, is the reliance on the private sector for the supply. This is demand that can only be met by the public sector. The blockage is certainly not the planning system. HRA is aware of an analysis by the Local Government Association that 90% of planning applications are approved, and that there are more than a million homes with planning permission still to be built (a stunning case of a market failing to work). It is clear to HRA – if not to the Government – that the planning system is not a significant barrier to new homes (as opposed, for example, to the failure of developers to fulfil their side of the bargain).

That said, there should be ways in which land hoarding is discouraged and windfall gains penalised. Serious consideration should be given to the following measures: a ringfenced tax on excessive planning gains with the proceeds fed into the local planning system; a capping of the land value at the time when permission is given; a time limit of, say, 5 years after which the permission would automatically lapse.

**Question 3**

Generally, the design of new developments in our area – for example, new blocks of student housing – is boring and unimaginative, if not worse (photos can be supplied). HRA would like to see the Government and the local authority insisting on better designs that reflect, even if they do not imitate, existing local styles. At the same time, HRA is sceptical of the extent to which ‘beauty’ can be created or protected through design guides or codes. There should be more training for planning officers in design and HRA supports the Government’s proposal for a local Chief Design Officer to assess and review the designs of new or remodelled buildings.

**Question 4**

HRA does not favour a single national method for assessing housing need. There are too many variables to be taken into account for any formula to be able to properly and fairly assess local housing need. More generally, the Association is surprised at the Government’s continuing espousal of algorithms in view of its recent unhappy experience with such devices.

**Question 5**

There is clearly scope for improving access to the planning process, especially for people who do not belong to a residents association or local community group (where they exist). One way of tackling this would be for such residents to sign up to a local authority-sponsored ‘alert’ service for regular notifications of relevant local applications. In addition, the Planning Portal should be rejigged to make it more user-friendly, for example, so that documentation can be viewed on-screen with the option of downloading and saving. But whatever changes are made, it needs to be borne in mind that a significant proportion of the population does not use the net (so hard copies of documents should always be available on demand).

**Questions 6-8**

HRA has no evidence to offer on these questions but would support the NORA evidence.

**Annex: Implementation of the Planning System**

HRA has had considerable experience of the working of the planning system over many years. It has had particular experience of the (very patchy) implementation of planning decisions. Put very simply. There does not seem to be any effective and efficient way of making planning decisions ‘stick’. This has two aspects: appeals and enforcement. HRA would like to see the following measures given careful consideration.

**Appeals**

This is where many unfairnesses, abuses and delays occur.

There is a fundamental unfairness in that whilst an applicant may appeal against a planning decision, those who have commented and contributed to the consideration of the application, such as local community groups, do not.

In addition, it is possible for an applicant to appeal the same case twice: first the refusal, and then when this is dismissed, the resulting enforcement action. HRA understands that when the Government introduced Section 70 *Decline to determine* powers for local authorities to prevent continuing repeat applications and/or following prior enforcement proceedings for the same property, it was intended to include a similar procedure to prevent the current ‘two bites at the cherry’ for the Appeals process. It is not clear why this was not done. It would still be highly desirable (a legal opinion for NORA on this issue is available).

A further improvement would be to reduce the period for lodging an appeal following a Refusal Notice for retrospective works from 12 weeks (currently for householder developments) to 4 weeks (which would align with the 28-day timescale for compliance with an Enforcement Notice). This would save up to 8 weeks without disadvantaging anyone.

Another suggestion would be to remove the right to appeal ground (a) (i.e., that permission should be granted) when appealing an Enforcement Notice where the Refusal Notice for the same development has already been dismissed on appeal. This would remove the right to appeal the planning merits of a development for a second time, again reducing the overall timescales. If adopted, this would not remove the right of applicants to appeal on other grounds, such as the timescales for compliance being too onerous or the Notice being incorrectly served. But it would remove the need for a planning judgement by the Planning Inspectorate (PINS) on the merits of the development (a case study is available).

A more radical measure would be to remove the right to appeal ground (a) at the enforcement stage when a development is retrospective and there is already an appeal in process (even if the appeal hasn’t been decided). This goes slightly further than S70 and would not be open to Judicial Review in the same way as a Local Authority’s use of S70 is.

Finally, as most refusals are appealed automatically, many wholly without merit, there should be a minimum fee of, say, £1,000, which could be used to support the appeals process. Such an amount would be appropriate and would help to discourage frivolous or vexatious appeals.

**Enforcement**

There are various ways in which enforcement could be speeded up and made more effective.

One obvious means would be to levy an automatic charge equal to the enhanced value created as a result of the (unauthorised) development. This in itself would be a powerful incentive to keep within the law. But there also needs to be a more effective Stop mechanism to discourage unauthorised works and retrospective planning applications (of which we seem to have more than our fair share in Southampton).

However, to repeat, none of these strengthenings will be effective unless local planning authorities have the resources, as well as the will, to make the planning system work and planning decisions stick.

Roger Brown