**Comments – Planning for the Future, White Paper, August 2020**

**Organisation: Devon Local Nature Partnership**

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Devon LNP includes a wide range of relevant partners including Local Authorities, wildlife NGOs, statutory bodies, landowners and academics. A new streamlined, effective planning process will be critical to achieving our three priorities: a Devon Nature Recovery Network, Net Zero and Connecting People and Nature. As such we would be keen to work with Government and other partners to develop a new framework that it is fit for purpose.

**Overview**

**Devon LNP agrees that:** the current system is too complex and lacks effective community participation, there is a huge lack of public understanding and trust, the system favours the bigger players and lacks focus on high quality design and sustainability.

**We welcome the commitment to develop**: a simpler system that results in high design standards, environmental protection, biodiversity net gain and more resource for LPAs.

**Key concerns are**: The potential for a new system to weaken protection of the natural environment, lack of resource for LPAs to deliver a new front-loaded system which will protect & restore the natural environment, lack of clarity in the PWP regarding the environmental requirements for full permission in Growth and Renewal Areas, lack of ecological expertise within LPAs and the suggestion that national and local wildlife data sets can be used instead of survey.

**Our priorities:**

1. Reforms must result in beautiful, wildlife rich, carbon neutral, developments that contribute to achieving Nature Recovery Networks and to increased connection between people and nature.
2. The new system must strengthen the current framework of environmental policy, legislation and guidance. It should embed the principles of avoid, mitigate, compensate and enhance, enable environmental recovery and ensure that all development results in 10% biodiversity net gain.
3. Reforms must result in a clearer more streamlined and consistent process for both developers and LPAs.
4. LPAs must be properly resourced to effectively deliver the new system. If Local Plans are front-loaded then LPAs must be resourced to carry out environmental assessment of sites before allocation and to produce detailed Design Codes and site- specific technical information. LPAs must have access to in-house ecological and landscape advice, as well as resource to commission the required surveys and impact assessments e.g. ecological assessment and LVIAs.
5. LPAs must be properly resourced to ensure that communities can effectively engage in Local Plan development.
6. Professional standards for ecologists must be strengthened to ensure consistency and submission of high-quality impact assessments.
7. Bureaucracy must be reduced e.g. simplified approaches to licencing for dormice and bats should be developed.
8. Ecological and Green Infrastructure requirements must be embedded into Design Guides and Codes ensuring that landscape, ecology and GI are integrated from the outset.
9. The current complex situation regarding local and national ecological data must be resolved with Local Record Centres at the heart of a new integrated data framework.
10. New settlements should not be brought forwards as Nationally Significant Infrastructure Schemes.
11. The new financial CIL scheme and new national/local policies must ensure continued adherence to local Strategies relating to HRA, Net Gain, Protected species etc. These Strategies have been developed to streamline the planning process.

**Pillar One – Planning for Development**

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

1. **Whatever approach is taken it is vital that current protection of the natural environment is strengthened and not weakened**. The current principles of avoid, mitigate, compensate and enhance must be embedded to ensure that Local Plans help to achieve the Gov’s objectives in the 25 YEP, a national Nature Recovery Network and legislative requirements relating to habitats, species (including HRA) and water quality. Irreplaceable habitats should be protected. Impacts on priority habitats, especially those supporting priority and rare species should be avoided unless there is overriding public need and the impacts can be effectively mitigated / compensated. 10% net gain must be achieved. Landscape character must be protected and high quality accessible green infrastructure included in all schemes.
2. **In Devon it will be impossible to identify many Growth Areas that don’t contain habitats which currently come under the ‘Protected Area’ definition** e.g. Local Wildlife Sites, priority habitats (e.g. hedges, ponds, broadleaved woodland) and habitat that MUST be protected to meet HRA requirements (e.g. dark corridors for bats). This situation should be acknowledged in any new framework. These habitats need to be identified at Local Plan stage and incorporated into the detailed design / site specific technical issues in order to achieve high quality sustainable and beautiful developments (see Priority 5).
3. If Local Plans give outline permission for Growth Areas then sufficient environmental information will be required up front to identify any show stoppers (especially in relation to SACs/SPAs and irreplaceable habitats) and to set out the design and site specific technical issues which need to be addressed by the developer at full planning permission stage. Collation of this information will require significant resource. **Use of existing ecological data from national and local sources will not be sufficient.**
4. **The term ‘Protected Area’ is misleading** as planning applications can still be made in this area and will just be subject to policy assessment as per the present system. Can this area be renamed? It is essential that new NPPF policies do not weaken protection of environmental assets in this Area (see (a) above).

The PWP states that Protected Areas will have more stringent controls. **However, no mention is made to Areas which should genuinely be protected from development (as per current legislation / policy).** Protected areas should include existing habitats e.g. irreplaceable habitats, SACs, SPAs, SSSIs, habitat outside statutory sites but integral to FCS (- high tide roosts / bat foraging habitat) and priority habitats as well as land identified for habitat restoration and creation as part of the NRN/LNRS (linked to SANGs, C sequestration, net gain etc). **Mapping of Protected Areas must therefore be linked to NRN / LNRS work.** It is critical that policies to protect these sites are set out in the new NPPF or that there is local flexibility to include policies in Local Plans. It is also important to note that, in Devon, some Growth Areas will contain these habitats (see b above).

**LAs and LNPs need advice on Government’s plans to link Local Plans and LNRS. In two tier authorities the LNRS may well be produced at the county level whilst Local Plans will be produced at the district level. If LNRS are going to become part of Local Plans then this must be made clear in order that LNRS are fit for purpose.**

**Important:** Without new funding it is unlikely that most counties, including Devon, will ever have the resource to map all existing irreplaceable / priority habitats / habitats supporting important species assemblages or rare species. In Devon we know that there are large areas of habitat which are likely to be of County Wildlife Site standard but which have not yet been surveyed or designated. The national Priority Habitat Inventory needs to be updated and should not be used to develop Local Plans or for development management. This issue must be understood when developing a new planning framework, particularly when considering the use of data.

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

1. We support the proposal to give LPAs flexibility to set policies to meet local environmental needs - this should be done with a national framework to ensure consistency. **Devon Local Plans currently include policies linked to local HRA requirements e.g. developer payments required to mitigation recreational impacts on SACs/SPAs such as the Exe and Tamar Estuaries. Developers must continue to meet these requirements.**
2. We note that Proposal 15 refers to the role that local, spatially specific policies can play in improving access and identifying places for woodland or forestry creation. We welcome this proposal. It is important that spatially specific policies use information provided through the Local Nature Recovery Strategies - which will, perhaps, become part of Local Plans?
3. The PWP states that in Growth and Renewal Areas the Local Plan would have a key and text setting out limitations on height / density etc. It is important that this includes site specific technical issues relating to ecology, landscape and green infrastructure e.g. habitats / dark wildlife corridors / accessible green space / cycling routes etc to be protected or created as part of the design. **It is essential that wildlife, landscape and green infrastructure requirements are embedded into area and site** **Design Guides and Codes** which would form part of the Local Plan and produced for areas or individual sites. There is a huge link between landscape and ecological requirements and yet the two disciplines are often not as integrated as they should be – leading to inconsistencies in approaches presented to LPAs. A requirement for ecology and GI to be built into Design Codes would save everyone time and money.
4. Whilst we welcome a faster process we would be very concerned by the introduction of an automated process. Applications do not always correctly identify impacts (e.g. loss of habitat / trees) and information provided can be incorrect. An automated process would not pick up these issues. Checks and input from planners and technical specialists is essential to achieve high quality development.

**7(a). 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?**

1. It is impossible to answer this question without knowing the detail of the Sustainability Test. With respect to the natural environment any test should ensure that Local Plans meet the requirements set out in answer (a) above.

**9(a). Do you agree that there should be automatic outline permission for areas for substantial development (*Growth* areas) with faster routes for detailed consent?**

1. Automatic outline permission removes uncertainties for everyone. This means however that Local Plans **must** have addressed ecological and landscape issues sufficiently in order to allocate the site (no show stoppers) and **must** set out the site specific issues (in the Local Plan key / text / Design Code) which need to be addressed by the developer/s in order to obtain full permission (impact assessment required to inform the details of mitigation, compensation, landscape design / net gain calculations etc).
2. It is important to note that if the developer already has outline permission it will be hard for the LPA to negotiate the high quality sustainable design required unless the detailed requirements for full permission are clearly set out in the Local Plan. LPAs again need to be resourced to ensure that the faster, detailed consent process genuinely results in high quality development and biodiversity net gain.

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

1. The current proposals are not clear. Any consent arrangements in Renewal and Protected Areas will require strong ecological and landscape policies in the NPPF and Local Plan in order to ensure that habitats and species are protected appropriately and that the NRN and landscape requirements are achieved. As stated in (d) above the term ‘Protected Area’ is very misleading and, if used, would therefore be very confusing for communities.

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

1. No. One of the main reasons for overhauling the current system is to ensure better community engagement in the planning process.

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

(n) We agree that there should be an aim to make the process faster. However, applications are largely held up not through lack of a digitised process but more often because the applicant fails to provide all the information required by the LPA or provides inconsistent information. We need **high quality planning applications** as well as high quality development. Effective community engagement will require Local Plans and consultation documents to be produced in a number of formats – not just digital.

**Pillar 2 - Planning for beautiful and sustainable places**

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

(o) Achieving a Devon Nature Recovery Network which at least doubles the existing area of wildlife rich habitat, provides natural solutions to carbon sequestration and which connects communities and businesses with nature for economic and health benefit.

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

(p) Yes. Given the links between design, landscape and ecology we would **strongly recommend that ecological, landscape and GI issues are embedded into Design Guides and Codes**. **This, in itself, would help to streamline the planning process as it would** **ensure that landscape, ecology, GI and design are integrated from the outset**. These specialisms are often still separated leading to inconsistencies in information submitted with planning applications – and therefore delays.

**18. 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?**

(q) We welcome the Government’s intentions to ‘*bring forward proposals for resourcing planning departments more broadly*’. This is essential and must include sufficient resourcing for in house technical specialists such as ecologist and landscape architects to deliver beautiful and sustainable places.

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

(r) In order to speed up the planning process and to ensure that we achieve beautiful and sustainable developments we again recommend that ecological requirements are embedded into design from the outside through being included in masterplans and site-specific design codes. Care needs to be taken when extending permitted development rights to ensure that this does not lead to further destruction of bat roosts etc.

**Effective Stewardship and Enhancement Of Our Natural And Historic Environment *(– no questions were included for this section*)**

1. As an LNP we obviously welcome the statement that Government wants the reformed system to play a proactive role in promoting environmental recovery and that links are made to Local Nature Recovery Strategies.
2. The PWP states that LNRS will ‘*secure enhancements through development schemes and contributions*’. It is important that these areas, along with areas identified for woodland or forestry creation are included in Local Plans. Presumably these areas would be identified in ‘Protected Areas’ but be given protection through local policy? Is there an intention to make LNRS part of the Local Plan?

**As stated above, LAs and LNPs need advice on Government thinking about the link between Local Plans and LNRS. In two tier authorities the LNRS may well be produced at the county level whilst Local Plans will be produced at the district level. If LNRS are going to become part of Local Plans then this must be made clear in order that LNRS are fit for purpose.**

1. Proposal 16 states that there is an intention to **design a quicker, simpler framework for assessing environmental impacts and opportunities**. This is welcomed provided that it strengthens rather than weakens the current system. We agree that environmental aspects should be considered early in the process. It is essential that LA ecologists, planners and LNPs are involved in developing this new frameworek. Devon LNP would be happy to be involved.
2. **We are very concerned by the following statement***: National and local level data, made available to authorities, communities and applicants in digital form, should make it easier to re-use and update information and reduce the need for site-specific surveys. Concerns include:*
   1. **National data sets such as the Priority Habitat Inventory are out of date and very incomplete and should not be used in the new system. This would lead to errors, confusion and delays.**
   2. Local data sets are largely owned by Local Records Centres. These data sets are shared via SLAs with LPAs and sold to developers in order to fund LRCs. If LRCs were fully funded using public money their data could be more freely available to some users making the planning system much more transparent (note that LPAs use LRC data to help produce Local Plans but are not able to put this data in the public domain).
   3. Developers are already required to obtain data from LRCs. In the majority of cases the data will not be sufficient to identify ecological impacts and mitigation requirements relating to a potential Area or a specific development and site-specific survey will generally always be required.

**Important: As stated above, without additional funding It is unlikely that most counties, including Devon, will ever have the resource to map all existing irreplaceable / priority habitats**. **and to keep this up to date**.

1. We agree that the current system is confusing and inconsistent. We would like to see:
   1. **Clearer national guidance on the need for detailed species surveys**. Expensive species surveys are often carried out when they are not needed. It is essential that LPAs have in house ecological expertise to advise developers on the need for surveys and that there is consistent national advice on this issue.
   2. **All LPAs to have in house ecological and landscape expert advice**. This in itself would help to speed up the planning process.
   3. **Higher / consistent standards for ecological consultants and LPA ecologists**. Whilst there are many very good ecological consultants, LPAs often receive poor quality and overly long ecological reports which lead to delays in the planning process. CIEEM should be supported in improving professional standards.
   4. **Simplified EPS licencing processes**. This has begun with Great Crested Newts but needs to include all other EPS. The current system is overly bureaucratic with both the LPA and NE having to consider the same issues. To speed things up a new framework should be developed whereby LPA planning permission equates to a licence (provided the LPA has an ecologist). We would be very happy to help develop a pilot approach to dormice in Devon.
   5. **Resource for monitoring and enforcement**.

**Pillar Three – Planning for infrastructure and connected places**

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

1. Net gain for biodiversity and other payments required to mitigate / compensate for wildlife impacts e.g. HRA payments for SANGs + high quality accessible natural greenspace.

**22(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?**

1. Whichever system is used it needs to capture developer contributions for net gain / HRA etc. These are largely currently captured through s106.

**25. Should local authorities have fewer restrictions over how they spend the Infrastructure Levy?**

1. Yes. Again, LPAs need the flexibility to be able to capture developer contributions for net gain / HRA etc.