

2 November 2020		ITEM: 6
Local Development Plan Taskforce		
White Paper Planning Reforms		
Wards and communities affected: All	Key Decision: Not Applicable	
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Executive Summary

On August 6th 2020 the Government published “*Planning for the Future*”, a White Paper which sets out its proposals for the reform of the planning system. This paper explores the proposals contained in the paper and provides commentary on the potential implications arising.

In short, there are three pillars to the reforms:

- Pillar 1: “Planning for Development” which includes changes to the way in which Local Plans are produced, the Development Management process and changes to the way that housing requirements are calculated;
- Pillar 2: “Planning for beautiful and sustainable places” which includes requirements for Local Authorities to prepare locality specific Design Codes and zoning plans, alongside further changes to permitted development rights;
- Pillar 3: “Planning for infrastructure and connected places” which includes proposals for a consolidated Infrastructure Levy, changes to the way affordable housing is secured, improvements to resourcing and staffing within planning departments and proposals to strengthen planning enforcement activity.

In many ways the approach that has already been taken by the Council in preparing its new Local Plan is closely aligned to the approach now being statutorily advocated by Government. In particular, the Government is placing significant weight on the importance of high quality design, community consultation and the provision of infrastructure, which are the three key planks of the Council’s approach to the growth agenda. The Council’s culture and approach to placemaking and its relationship with the development industry should also be recognised as being closely aligned to Government’s vision for the future of planning as a vehicle for growth.

The White Paper reinforces the importance of a Plan-Led system and highlights the need for a strong professional workforce to deliver the reforms.

1.0 Overview

On August 6th 2020, the Government published “*Planning for the Future*”, a White Paper which sets out its proposals for the reform of the planning system. Its key objective is simplifying the current system to boost housing delivery whilst also making it easier for local communities to have access to the planning system to help shape the future development of their area.

Consultation on the White Paper will close on October 29th 2020. Following consideration of responses, the Government will legislate for the introduction of the new system. This will include a requirement that all Local Authorities have a Local Plan in place by spring 2024, the end of the current Parliament.

In addition to the White Paper, the Government is undertaking a further consultation on “*Changes to the Current Planning System*” which closes on October 1st 2020. This includes changes to the standard method for assessing local housing need, support for small and medium-sized builders by temporarily lifting the small sites threshold below which developers do not need to contribute to affordable housing and extending the current Permission in Principle to major development.

2.0 Summary of the reforms

Pillar 1 – Planning for Development

A new approach to plan-making

The new system is to be a plan-led one with new style Local Plans. In proposing a new approach to plan-making, it is intended that Local Plans should have a clear role and function, which should be:

- a) To identify land for development and sites that should be protected; and
- b) To be clear about what development can take place in those different areas so that there is greater certainty about land allocated for development and so there is a faster route to securing planning permission.

In order to make this happen the White Paper has set out the following proposed changes to simplify the system:

- Local plans will significantly reduce in size, by at least two thirds, and follow a defined template, with the NPPF becoming the primary source of policies for Development Management and local plan policies;
- The Local Plan should be assessed against a single statutory ‘sustainable development’ test to strike the right balance between

environmental, social and economic objectives and which will replace the current test of soundness as well as abolish the Sustainability Appraisal system and the need for Duty to Cooperate;

- Local Plans should be visual and map based, standardised, web-based, based on the latest digital technology and supported by a new template;
- Local Plan production is proposed to take place within a 5-phase 30-month total time frame (and within a specified period once the legislation is introduced) and with increased community consultation;
- Local plans will be expected to identify development need for a minimum of 10 years, as opposed to the current 15 years and all plans will need to be reviewed every 5 years;
- Local Plans should identify three categories of land: *Growth* areas suitable for substantial development, *Renewal* areas suitable for development, and areas that are *Protected*, each category having a different route for securing development consent;
- Development management policy contained in the Local Plan would be restricted to clear and necessary site or area-specific requirements, with the NPPF becoming the primary source of policies for development management;
- For planning application determination time limits these would become legally binding rather than aspirational with potential penalties including full refund of application fees for non-determination;
- Design Guides and/or Design Codes would ideally be produced on a 'twin track' alongside the Local Plan, either for inclusion within it or prepared as supplementary planning documents;
- Use of a Standard Method for establishing housing requirements from a nationally set figure with local authorities responsible for allocating land to meet this requirement.

Pillar 2 - Planning for beautiful and sustainable places

Alongside the proposed reforms to the plan-making system, the White Paper sets out the Government's ambition to ensure that:

"we have a system in place that enables the creation of beautiful places that will stand the test of time, protects and enhances our precious environment, and supports our efforts to combat climate change and bring greenhouse gas emissions to net-zero by 2050".

To do this, the Government sees planning as a powerful tool for creating visions of how places can be. It proposes to do this by:

- Engaging communities in the process to fostering high quality development as well as the facilities which are essential for building a real sense of community, generating net gains for the quality of our built and natural environments - not just 'no net harm';
- The planning system setting clear expectations for the form of development which we expect to see in different locations, assisted by a National Model Design Code to be published by Government to supplement the National Design Guide published in October 2019;

- Making design expectations more visual and predictable with design guidance and codes be prepared locally with community involvement, and codes more binding on decisions about development;
- Bringing forward proposals later this year for improving the resourcing of planning departments more broadly and proposing that each authority should appoint a Chief Officer for design and place-making, as recommended by the Building Better, Building Beautiful Commission;
- Introducing a fast-track for beauty through changes to national policy and legislation, to incentivise and accelerate high quality development which reflects local character and preferences (for proposals coming forward that comply with pre-established principles of what good design looks like (informed by community preferences)).

The White paper sets out three ways by which the Government hopes to achieve these objectives:

1. Through updating the NPPF to make it clear that schemes which comply with local design guides and codes have a positive advantage and greater certainty about their prospects of swift approval;
2. For plans identifying areas for significant development (Growth areas), legislation will require that a masterplan and site-specific code are agreed as a condition of the permission in principle which is granted through the plan;
3. By legislating to widen and change the nature of permitted development, so that it enables popular and replicable forms of development to be approved easily and quickly, helping to support '*gentle intensification*' of towns and cities, but in accordance with important design principles. To do this the White Paper advocates the revival and use of 'pattern books' to articulate standard building types, options and associated rules (such as heights and setbacks).

Pillar 3 - Planning for infrastructure and connected places

New development brings with it new demand for public services and infrastructure. Mitigating these impacts – by securing contributions from developers and capturing more land value uplift generated by planning decisions to deliver new infrastructure provision – is key for both new and existing communities.

The White Paper sets out a number of proposals for how best to secure infrastructure necessary for the delivery of new development, including:

- The existing parallel regimes for securing developer contributions via Section 106 agreements and the Community Infrastructure Levy (CIL) be replaced with a new, consolidated 'Infrastructure Levy' that would be charged as a fixed proportion of the development value above a threshold (where the value of development is below the threshold, no Levy would be charged; where the value of development is above the threshold, the Levy would only be charged on the proportion of the value

that exceeded the threshold), with a mandatory nationally-set rate or rates and the current system of planning obligations abolished;

- A Government proposal to allow local authorities to borrow against Infrastructure Levy revenues so that they could forward fund infrastructure;
- Extending the scope of the Infrastructure Levy to capture changes of use through permitted development rights (even where there is no additional floor space) and for some permitted development rights including office to residential conversions and new demolition and rebuild permitted development rights;
- Infrastructure Levy including affordable housing provision potentially through in-kind delivery on-site (which could be made mandatory where an authority has a requirement, capability and wishes to do so) or Infrastructure Levy payments in the form of land within or adjacent to a site. whereby in partnership with affordable housing providers local authorities could then build affordable homes, enabling delivery at pace;
- Increasing local authority flexibility, allowing them to spend receipts on their policy priorities, which could include improving services or reducing council tax, once core infrastructure obligations have been met.

Making sure the system has the right people and skills

The White Paper comments that Local planning authorities remain at the heart of the Government's ambitious reforms. However, the Government recognise that local planning departments need to have the right people with the right skills, as well as the necessary resources, to implement these reforms successfully.

In order to succeed they will need to have sufficient leadership, a strong cadre of professional planners and good access to technical expertise as well as transformed systems that utilise the latest digital technology.

The White Paper sets out the Government's intention to develop a comprehensive resources and skills strategy for the planning sector to support the implementation of its reforms. In doing so, it is proposed that this strategy will be developed including the following key elements:

- The cost of operating the new planning system should be principally funded by the beneficiaries of planning gain – landowners and developers – rather than the national or local taxpayer;
- Planning fees should continue to be set on a national basis and cover at least the full cost of processing the application type based on clear national benchmarking, which should also involve the greater regulation of discretionary pre-application charging to ensure it is fair and proportionate;
- If a new approach to development contributions is implemented a small proportion of the income should be earmarked to local planning authorities to cover their overall planning costs, including the preparation and review of Local Plans and design codes and enforcement activities.

The White Paper further notes that some local planning activities should still be funded through general taxation given the public benefits from good planning. Time-limited funding will be made available by the Government in line with the new burdens principle to support local planning authorities to transition to the new planning system as part of the next Spending Review.

Local planning authorities should be subject to a new performance framework which ensures continuous improvement across all planning functions from Local Plans to decision-making and enforcement – and enables early intervention if problems emerge with individual authorities.

Reform should be accompanied by a significant enhancement in digital and geospatial capability and capacity across the planning sector to support high-quality new digital Local Plans and digitally enabled decision-making.

Stronger enforcement

As local planning authorities are freed from many planning requirements through the proposed reforms, the White Paper suggests that they will be able to focus more on enforcement across the planning system. To help achieve this it is proposed to review and strengthen the existing planning enforcement powers and sanctions available to local planning authorities to ensure they support the new planning system. This will include more powers to address intentional unauthorised development, consider higher fines, and look to ways of supporting more enforcement activity.

3.0 Implications and Issues Arising

Impact on the current plan-making process

The White Paper sets out the Government's intention that all local authorities should have a Local Plan in place by the end of the current Parliament in 2024. In many ways the approach that has already been adopted by the Council in preparing its new Local Plan is aligned to the approach now being advocated by Government. The Council's approach to growth is that it should be community-driven, infrastructure-led and make a key contribution to high quality place making. The Council's next steps include:

1. Roll out of Borough-wide Design Charrette community engagement events in association with the Princes Foundation to develop a vision and guiding principles to shape the scale and nature of future growth, development and infrastructure provision.
2. Roll out of Local Plan Planning Performance Agreements (LPPPA) to assist in funding the Local Plan process and the setting up of a 'Development Team' approach as the mechanism for involving landowners, scheme promoters, the Council and key delivery partners (such as Homes England,

Highways England, the Environment Agency) in the commissioning of the evidence and the preparation of master plans, infrastructure delivery plans and transport access strategies for each growth location.

3. The further evolution and development of the '*Your Place, Your Voice*' community engagement approach via the Design Charrette process and on-going informal engagement with local communities as set out in individual LPPAs.
4. The ongoing restructuring and expansion of the Strategic Services team to reflect the Government's new priorities for the planning system and its emphasis on place- making and high quality design and infrastructure delivery.

The approach accords with the approach set out in the White Paper and in order for the Council to fully respond to the Government's proposed reforms, it would simply need to adopt and adapt the process further through the preparation of Design Codes and Zoning Plans.

In view of the potential similarities in approach to plan-making, opportunities might exist for the Council to work collaboratively with MHCLG as a 'pilot' authority for the roll out of the new reforms. The Planning Advisory Service (PAS) are already looking for Local Authorities to assist in piloting the development and digitisation of the planning system and there may be further opportunities through discussion with MHCLG for the Council to become further involved in piloting the process with potential financial and in-kind benefits in doing so.

Costs and Resources

As with all other authorities, the costs and resources required to transition over to the new system and to prepare a new Local Plan in place and to successfully digitise the planning system in Thurrock will be significant. Although the Government has signalled that it will make additional resources available to help authorities make the transition, it is not clear what level of funding will be made available or the timescales over which it will be provided.

This will have implications nationally in terms of a local authority's capacity and ability to resource the local plan process and to procure the necessary professional and technical skills and expertise to ensure that they can meet the Government's tight timescales for plan production. With a severe national shortage of planners, urban designers and related environmental specialists, and a potential upsurge in demand for these skills in prospect, the Council will need to consider how it can best position itself to procure the necessary skills and support in advance of a rise in demand from other sources.

As part of this process it will be necessary for the Council to consider what changes are required to the existing service delivery processes and they can be adapted to more effectively and efficiently deliver the Government's planning reforms.

Should the Government's reforms lead to a reduction in Member involvement in the Development Management process, further consideration will need to be given to how to strengthen and manage Member involvement in the Local Plan process given its increased importance in establishing the principle of planning-permission for all new developments.

Duty to Cooperate and Strategic Planning

The new standard methodology for housing requirements bypasses strategic planning to define a centrally-defined approach for every local authority area, and there is no duty to cooperate mechanism as a tool for driving distribution of those numbers between local planning authorities.

The document refers to the possibility for LPAs to "agree alternative distributions of their requirement in the context of joint planning arrangements" and "it may be appropriate for Mayors of combined authorities to oversee the strategic distribution of the requirement in a way that alters the distribution".

However, it says nothing specific about Spatial Development Strategies or Joint Strategic Plans. Both the London Plan and Greater Manchester Strategic Framework (GMSF) have taken long periods to prepare, and some of the other joint planning arrangements have also lacked urgency and clarity. Under the new arrangements – with housing numbers already set and national sets of policies – their role is less clear.

With a 30-month timetable for plan preparation, there is unlikely to be sufficient time for two tiers of statutory plan-making with the production of local plans having to follow on from that of any strategic upper tier plan.

Taking these considerations into account, there is little to be gained from continuing to progress the South Essex Plan at this stage in the absence of any guidance from Government on the future of Spatial Development Strategies.

Infrastructure Delivery and Affordable Housing

There is a risk that the use of a nationally set Infrastructure Levy will not generate sufficient funding to cover the cost of providing the full range of infrastructure required to deliver balanced and sustainable communities.

The consultation is clear that the Infrastructure Levy is about land value capture, not mitigating specific developments:

"In areas where land value uplift is insufficient to support significant levels of land value capture, some or all of the value generated by the development would be below the threshold, and so not subject to the levy. In higher value areas, a much greater proportion of the development value would be above the exempt amount, and subject to the levy".

In Growth and Renewal areas the acceptability of plan-led development will have been established and presumably there will be an acceptance that the necessary infrastructure will come forward in a timescale over which the Council has control. In addition, the deliverable test will be that “sites should not be included in the plan where there is no reasonable prospect of any infrastructure that may be needed coming forward within the plan period”.

There will need to be some confidence that the levy funds are actually used at the right time to deliver the mitigation when it is needed for that specific site; to avoid a situation where the development makes a contribution but off-site infrastructure required at the time does not get delivered.

The White Paper recognises “it is important that there is a strong link between where development occurs and where funding is spent” and the Government is keen to enable “more freedom could be given to local authorities over how they spend the Infrastructure Levy”. Importantly, this proposal would enable LPAs to spend receipts on their ‘policy priorities’, but only once core infrastructure obligations have been met. Beyond key infrastructure projects, the Government also alludes to the spending of receipts on “improving services or reducing council tax”. It would also be possible to use the Levy for providing planning services.

Although a critical shift away from the traditional forms of funding infrastructure, the Government’s proposals would be sequential in nature, requiring LPAs to ring fence funding for the delivery of affordable housing – if necessary – along with delivering key pieces of infrastructure, before seeking to deliver wider infrastructure and services benefits. This is broadly in-line with how LPAs currently operate, insofar as it is for the LPA to identify the right balance between competing priorities to meet local needs.

However, the abolishment of flexibility allowed for through s106 obligations is likely to leave some parties, who have historically requested s106 contributions to make acceptable the impacts of development, at the back of the queue in terms of priorities. This raises questions about whether, given the flat-rate nature and variable costs of land/building nationally, the Infrastructure Levy will raise sufficient funds for a majority of LPAs’ competing priorities and interests to be funded through this mechanism. This is particularly the case in more marginal market areas.

4.0 Conclusion

The approach that has been already adopted by the Council in preparing its new Local Plan is closely aligned to the approach now being advocated by Government. This is a significant positive.

In particular, the Government is placing significant weight on the importance of high quality design, community consultation and infrastructure, which are already the three key planks of the Council’s approach to the Local Plan. The

Council's culture and approach to place-making and its relationship with the development industry should also be recognised as being closely aligned to Government's vision for the future.

Whilst the majority of the reforms are welcome, there are elements of the reforms that poses a potential risk (namely those around infrastructure delivery). However, the Council already has a good working relationship with MHCLG and on this basis it is in a good position to seek out opportunities to continue to work with government to influence thinking and to secure, wherever possible, assistance to bolster resources to deliver the reforms.