

**REPORT TO:** CABINET

**DATE:** 15 OCTOBER 2020

**TITLE:** 'PLANNING FOR THE FUTURE': HARLOW COUNCIL RESPONSE TO THE GOVERNMENT CONSULTATION

**PORTFOLIO HOLDER:** COUNCILLOR DANNY PURTON, PORTFOLIO HOLDER FOR ENVIRONMENT

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**This is not a Key Decision**  
**It is on the Forward Plan as Decision number I010207**  
**Call-in Procedures may apply**  
**This decision will affect no ward specifically.**

**RECOMMENDED that Cabinet:**

- A** Agrees the responses to the consultation on the Planning for the Future White Paper as set out in Appendix A.
- B** Grants delegated authority to the Head of Environment and Planning, in consultation with the Portfolio Holder for Environment, to make any amendments that may be required, following the Cabinet discussion, to the formal response and that this be forwarded to MHCLG.

**REASON FOR DECISION**

- A** To enable the Council to respond to the consultation and to have input into planning reforms.

**BACKGROUND**

1. In March 2020 the Government signalled its intention to undertake fundamental reform of the planning system, the detail being set out in the Planning for the Future White Paper. This has been prompted by a need to reflect on matters that have been brought into focus by the Covid-19 pandemic, including the issues associated with working at home especially for those living in small, substandard homes and who do not have access to shops and parks, those struggling to pay rent as well as those without homes. The aim of the reform is to

develop a simpler, faster and more predictable planning system that will work to address these and other issues. The Government has made it clear that it sees this as the most radical reform of the planning system since the Second World War.

2. Overall the objectives underpinning the Government's proposals are to:
  - a) Streamline and modernise the planning system;
  - b) Improve outcomes on design and sustainability;
  - c) Reform the developer contributions regime; and
  - d) Ensure more land is available for development where it is needed.
3. The White Paper was published for public consultation on 6 August 2020 and the consultation closes on 29 October 2020.
4. The White Paper identifies a number of perceived issues with the current planning including that:
  - a) Plan making takes too long (an average of 7 years to prepare and adopt new Local Plans);
  - b) Assessments of housing need, viability and environmental impacts are too long and complex. Planning decisions are discretionary, rather than rules-based, giving rise to a consistency issue;
  - c) Perceived lack of public trust;
  - d) The process for negotiating developer contributions from affordable housing to infrastructure is complex, protracted and unclear;
  - e) Not enough focus on design, and little incentive for high quality new homes and places; and
  - f) Not enough homes are being built, especially in those places where the need is highest.

## **ISSUES/PROPOSALS**

5. In response to this, the White Paper sets out a number of proposals to reform the planning system and these are set out in paragraphs 6 to 11 below.
6. Streamlining the planning process with more democracy taking place more effectively at the plan making stage, and replacing all existing plan-making law in England to achieve this alongside a new National Planning Policy Framework:

- a) Simplifying the role of Local Plans, to focus on identifying land under three categories:
  - i) Growth areas suitable for substantial development, and where outline approval for development would be automatically secured for forms and types of development specified in the Plan;
  - ii) Renewal areas suitable for some development, such as gentle densification; and
  - iii) Protected areas where development is restricted.
- b) Local Plans would set clear rules rather than general policies for development. This would mean general development management policies would be prepared nationally, with a more focused role for Local Plans in identifying site and area-specific requirements, alongside locally-produced design codes. Plans would also be significantly shorter in length with just a core set of standards and requirements for development;
- c) Local councils should radically and profoundly re-invent the ambition, depth and breadth with which they engage with communities as they consult on Local Plans. The reforms would aim to democratise the planning process by putting a new emphasis on engagement at the plan-making stage. But at the same time, the opportunity for consultation at the planning application stage would be streamlined, because the Government considers this adds delay to the process and allows a small minority of voices, some from the local area and often some not, to shape outcomes;
- d) Local Plans would be subject to a single statutory “sustainable development” test, and ‘unnecessary’ assessments and requirements that cause delay and challenge in the current system would be abolished. This would mean replacing the existing tests of soundness, updating requirements for assessments (including on the environment and viability) and abolishing the Duty to Cooperate;
- e) Local Plans would be visual and map-based, standardised, based on the latest digital technology, and supported by a new standard template. Plans should be significantly shorter in length, and limited to no more than setting out site or area specific parameters and opportunities;
- f) Local authorities and the Planning Inspectorate will be required through legislation to meet a statutory timetable (of no more than 30 months in total) for key stages of the process, and there will be sanctions for those who fail to do so;

- g) Decision-making would be faster and more certain, within firm deadlines, and should make greater use of data and digital technology; and
  - h) It is proposed to strengthen enforcement powers and sanctions so that as we move towards a rules-based system, communities can have confidence those rules will be upheld.
7. Second, it is proposed to take a radical, digital-first approach to modernise the planning process. This means moving from a process based on documents to a process driven by data:
- a) Supporting local planning authorities to use digital tools to support a new civic engagement process for local plans and decision-making, making it easier for people to understand and engage with the planning process;
  - b) Local plans would be standardised, enabling accessible interactive maps that show what can be built where. The data will be accessed by software used across the public sector and also by external PropTech entrepreneurs to improve transparency, decision-making and productivity in the sector; and
  - c) This means engaging with the UK PropTech sector through an Innovation Council to make the most of innovative new approaches to meet public policy objectives, help this emerging sector to boost productivity in the wider planning and housing sectors, and ensure government data and decisions support the sector's growth in the UK and internationally.
8. Third, to bring a new focus on design and sustainability, by:
- a) Ensuring the planning system supports efforts to combat climate change and maximises environmental benefits, by ensuring the National Planning Policy Framework targets those areas where a reformed planning system can most effectively address climate change mitigation and adaptation and facilitate environmental improvements;
  - b) Facilitating ambitious improvements in the energy efficiency standards for buildings to help deliver our world-leading commitment to net-zero by 2050;
  - c) 'Beauty' will be sought for places being created, expecting new development to be beautiful, and to create a 'net gain' not just 'no net harm', with a greater focus on 'placemaking' and 'the creation of beautiful places' within the National Planning Policy Framework;
  - d) Making it easier for those who want to build 'beautifully' through the introduction of a 'fast-track for beauty' through changes to national

policy and legislation, to automatically permit proposals for high quality developments where they reflect local character and preferences;

- e) Introducing a quicker, simpler framework for assessing environmental impacts and enhancement opportunities, that speeds up the process while protecting and enhancing England's unique ecosystems;
  - f) Expecting design guidance and codes to be prepared locally and to be based on genuine community involvement so that local residents have a genuine say in the design of new development, and ensure that codes have real 'bite' by making them more binding on planning decisions;
  - g) Establishing a new body to support the delivery of design codes in every part of the country, and give permanence to the campaigning work of the Building Better, Building Beautiful Commission and the life of its co-chairman the late Sir Roger Scruton;
  - h) Ensuring that each local planning authority has a chief officer for design and place-making, to help ensure there is the capacity and capability locally to raise design standards and the quality of development; and
  - i) Continuing to protect our historic buildings and areas while ensuring the consent framework is fit for the 21st century.
9. Fourth, it is proposed to improve infrastructure delivery in all parts of the country and ensure developers play their part, through reform of developer contributions. It is therefore proposed that:
- a) The Community Infrastructure Levy, and the current system of planning obligations through Section 106 Agreements, will be reformed as a nationally-set value-based flat rate charge ('the Infrastructure Levy'). A single rate or varied rates could be set. The Government aims for the new Levy to raise more revenue than under the current system of developer contributions, and deliver at least as much, if not more, on-site affordable housing as at present. This captures a greater share of the uplift in land value that comes with development;
  - b) Affordable housing provided through planning gain will be more ambitious, and it is claimed that the new Infrastructure Levy allows local planning authorities to secure more on-site housing provision;
  - c) Local authorities will be given greater powers to determine how developer contributions are used, including by expanding the scope of the Levy to cover affordable housing provision to allow local planning authorities to drive up the provision of affordable homes. Affordable housing provision supported through developer contributions will be kept at least at current levels, and that it is still delivered on-site to ensure that new development continues to support mixed communities.

Local authorities will have the flexibility to use this funding to support both existing communities as well as new communities; and

- d) Extending the scope of the consolidated Infrastructure Levy and the removal of exemptions from it to capture changes of use through permitted development rights are proposed, so that additional homes delivered through this route bring with them support for new infrastructure.

10. Fifth, to ensure more land is available for the homes and development people and communities need, and to support renewal of town and city centres, it is proposed:

- a) That there will be a new nationally-determined, binding housing requirement that local planning authorities would have to deliver through their Local Plans. This would be focused on areas where affordability pressure is highest to stop land supply being a barrier to enough homes being built. It is proposed that this would factor in land constraints, including the Green Belt, and would be consistent with the Government's aspirations of creating a housing market that is capable of delivering 300,000 homes annually and one million homes over this Parliament;
- b) To speed up construction where development has been permitted, it is proposed to make it clear in the revised National Planning Policy Framework that the masterplans and design codes for sites prepared for substantial development should seek to include a variety of development types from different builders which allow more phases to come forward together;
- c) To provide better information to local communities, to promote competition amongst developers, and to assist SMEs and new entrants to the sector, options will be consulted on to improve the data held on contractual arrangements used to control land; and
- d) To ensure publicly-owned land and public investment in development supports thriving places, the Government will ensure decisions on the locations of new public buildings – such as government offices and further education colleges – support renewal and regeneration of town centres and explore how publicly-owned land disposal can support the SME and self-build sectors.

11. The White Paper expands on these reforms further under three themes of 'Planning for development', 'Planning for beautiful and sustainable places' and 'Planning for infrastructure and connected places'. Comments on the proposals are sought via 26 specific questions. It is clear that some of these are directed at the wider community and businesses and not just local planning authorities. Suggested responses to these are set out separately in Appendix A.

12. The proposals set out in the White Paper are far ranging and are likely to have considerable implications for the discharge of the statutory planning responsibilities of all local authorities. They represent a fundamental overhaul of the current planning system in England and will have implications for Harlow Council and other local planning authorities across the country. They follow on from significant changes that have already been made over the last decade to the planning system and represent an attempt to address some of the issues that have arisen from these changes, including the complexity of the process, the timescales and delay involved and the resultant uncertainty. Whilst the consultation has been directed at all sections of the community in terms canvassing views on perceptions of the existing planning system, there are matters that could have implications for the Council and these are outlined below.
13. It is widely recognised that the existing planning system has been hindered by a series of changes that have impacted on the delivery of an effective and consistent plan making framework across England, that on occasion, have ignored the synergies between socio-economic and environmental considerations at the national, regional and local levels. This has been compounded by the challenges associated with the introduction of alternatives to the previous plan making regimes such as the Duty to Cooperate and the difficulties of reaching accord with a range of different planning authorities and other organisations, including Government agencies. This is perceived to have led to a fragmented, complex and time consuming approach that has delayed the plan making process. It is not clear how this would be resolved in the proposed reforms, especially having regard to small districts with tight administrative boundaries such as Harlow and which lies on the boundaries between two County Councils.
14. However, given the time taken to assemble this evidence, especially where there are clear cross boundary matters that need to be considered, and which necessitates political agreement on outcomes through the Duty to Cooperate, the opportunity to review the nature of the plan making process could be supported. This is predicated on the need to ensure that any review has regard to the need to take into local circumstances, that enables local nuances to be taken into consideration and addressed through appropriate policies.
15. At present the Council is awaiting the Inspectors final report into his Examination of the Harlow Local Development Plan (HLDP) which means that it is anticipated Harlow will have an adopted Local Plan in place before the end of the year. This means that this is likely to be in a transition period before the new reforms come in to place. Although given that the Government intends to replace the raft of existing planning legislation in place it is considered this make take some time. Nevertheless it is understood the Council will have around three plus years to develop a new style Local Plan. This would accord with the need to commence a review of the HLDP to take into account the new Standard Housing Methodology.
16. In terms of the structure of local plans many of the notations shown on the Policies Map of the HLDP generally reflect the three planning zones (Growth,

Renewal and Protected) that are being proposed. However, there will be need for locally relevant notations to be retained such as those relating to Green Wedges and Neighbourhood Centres.

17. The Council already utilises a range of IT tools and web based technology and a move to a more digitised approach to plan making and consultation would be supported, however, this is predicated on financial resources being available and the acquisition of additional skill sets that might be needed. Some of the proposals could simplify Local Plan production could reduce existing costs but more detail will be needed in this respect. It should also be recognised that not all members of the community have access to IT resources and may not feel comfortable using it. The needs of all the community should, therefore, be taken into consideration in this respect.
18. In addition some of the other measures proposed imply reduced public consultation that could limit opportunities for local people and stakeholders to influence the plan/proposals and could result in unnecessary opposition to emerging plans. The proposals seek to shift public engagement to the Plan making stage rather than the planning application stage. In theory, this gives local residents more opportunity to shape the nature of their area. However, it could be argued that in practice people are more likely to engage on a planning application that impacts upon their area rather than the broader strategies of Local Plans or the details of Design Codes. This may result in people feeling even less engaged with the planning process.
19. The Council, through existing strategies and the policies in the HDLP, as well as those measures being promoted across the Harlow and Gilston Garden Town, is already working towards addressing and mitigating against the effects of climate change. The future review of the Local Plan, as part of the existing plan, monitor and manage approach, will consider the effectiveness of these and develop further initiatives and measures as necessary. The Government's approach in this respect is supported, although it may be questioned as to whether the White Paper is bold enough on the issues of sustainability and climate change.
20. In addition the Council through its existing planning policies, those in the new HDLP and the Harlow Design Guide SPD and those initiatives being promoted through the Harlow and Gilston Garden Town has sought to secure good design in new development throughout the District. This reflects the masterplan approach that shaped Harlow New Town under the design principles established through Sir Fredrick Gibberd. The Council will continue to promote exemplary design in the town and would support the Government's proposals in this respect especially if supported by Government Planning Inspectors. However, to promote the notion of "beauty" could give rise to inconsistencies in design given the levels of subjectivity involved, especially if over seen by a panel of experts that do not reflect local expectations.
21. A strong focus on design and more ability to influence this at the local level is to be welcomed. It has often been an area of frustration for Members that under the current planning system there is often limited ability to refuse applications on design grounds alone. More detail on the proposals will need to be seen to

examine how this will work in practice, but the ability for local planning authorities to have more influence on the design of what gets built in their areas would be a positive step.

22. A further area of complexity and delay in the plan making process relates to the funding and provision of essential infrastructure to facilitate development. Opportunities to simplify this process could be supported subject to further details being provided by Government. Of particular note is the proposal to give local authorities greater powers to determine how developer contributions are used by expanding the scope of the Levy to cover affordable housing provision. This will allow local planning authorities to drive up the provision of affordable homes and they will have the flexibility to use funding to support both existing communities as well as new communities. Again, however, the White Paper is short on detail and we will need to see more on how this will work in practice.
23. There is a strong focus in the White Paper on the provision of affordable housing and the claim that local authorities will be able to secure more contributions for this. It should be noted however, that much of the focus on this is on the provision of First Homes, which the Government has trailed for some time. Essentially this initiative, when introduced, will provide a 30 per cent discount on market value to first time buyers, subsidised by the developers. Whilst this could provide a boost to many, particularly young people, seeking to get on the housing ladder there will be a concern that if this is the priority for developer contributions whether there will then be much left in the pot for affordable rent and social rent products. A clear priority for the Council has been the provision of affordable housing and in particular social rented housing and the proposals may make it more difficult to achieve this.
24. It is also noted that it is proposed to examine exemptions from the levy so that it captures changes of use through permitted development rights, so that additional homes delivered through this route bring with them support for new infrastructure. This is of particular relevance to Harlow and would be something that this Council would support.
25. The proposals in the White Paper to simplify the process of assessing environmental impacts in the preparation of Local Plans could reduce costs and speed up the process but it needs to be explained how unforeseen adverse impacts can be considered and properly taken into account. The costs of environmental assessments are undoubtedly very high under the current system, but we will want to be satisfied that there are appropriate safeguards for our environmental heritage.
26. It is recognised that there may be some development management matters that clearly have a national dimension, and indeed some of this is already reflected in the NPPF, that could warrant a national approach e.g. the protection of heritage and wildlife assets, space standards etc. However, there will also be a need to reflect unique local characteristics or needs that may prevail. Consequently any national template of development management policies should also facilitate the provision of evidentially based local policies where this is appropriate and can be justified. The White Paper indicates that there will be some scope for local

policies to be agreed, but it is not clear as to the extent of these or the process for them being agreed.

27. In addition to the above, whilst the reforms have a focus on housing related matters and the economy it is not clear how other land use matters, such as minerals and waste planning will be taken into account. Whilst not a significant issue for Harlow the District does have a safeguarded site for the transshipment of minerals that was informed by the existing ECC Minerals and Waste Plan.
28. The ambitious planning reforms, set out in the White Paper, if implemented in their current form, will have a fundamental impact on plan making system and on the implementation of policy through the development management process. There are elements within these reforms that could help improve the responsiveness of the process, reduce complexity and improve transparency and accessibility for the wider public. However, this will require further clarification across a number of areas and will require investment in resources, different skill sets and training to help implement, given the step change involved. It will also need to have regard to how this will be delivered.

## **IMPLICATIONS**

### **Environment and Planning (Includes Sustainability)**

As set out in the report.

**Author: Andrew Bramidge, Head of Environment and Planning**

### **Finance (Includes ICT, and Property and Facilities)**

As set out in the report.

**Author: Simon Freeman, Head of Finance and Property and Deputy to the Chief Executive**

### **Housing**

As contained in the report.

**Author: Andrew Murray, Head of Housing**

### **Community Wellbeing (Includes Equalities and Social Inclusion)**

As set out in the report.

**Author: Jane Greer, Head of Community Wellbeing**

### **Governance (Includes HR)**

No implications at this stage.

**Author: Simon Hill, Head of Governance**

## **Appendices**

Appendix A – Proposed Consultation Responses

**Background Papers**

None.

**Glossary of terms/abbreviations used**

None.