

Committee: **Lead Member Transport and Environment**

Date: **19 October 2020**

Report By: **Director of Communities, Economy & Transport**

Title of Report: **Planning for the Future White Paper**

Purpose of Report: **To summarise some of the key planning reforms being proposed, identify potential implications for East Sussex County Council and outline the key points we wish to raise in a response to the consultation**

RECOMMENDATION: The Lead Member is recommended:

- 1) To note the reforms being proposed;**
 - 2) To note the potential implications for East Sussex County Council; and;**
 - 3) Endorse the key points that will be raised in the County Council's consultation response and provide delegated authority to the Director of Communities, Economy & Transport to expand upon these points in a full written response to the consultation prior to the deadline of the 29 October.**
-

1 Background information

1.1 The Government published the Planning for the Future White Paper on the 6 August 2020. The White Paper is open for consultation until the 29 October 2020 and it proposes a reform of the planning system in England, covering plan-making, development management, development contributions, and other related policy proposals. The Government envisage the White Paper leading to the biggest overhaul of the planning system since the Town and Country Planning Act in 1947.

1.2 The White Paper sets out a vision for the basis of a reformed planning system and therefore detail surrounding some proposals is lacking at this stage. Were the proposed reforms to be taken forward, there would be a requirement for primary and secondary legislation. Changes would also be required to the Government's National Planning Policy Framework (NPPF).

1.3 Alongside the White Paper, the Government also published a consultation on changes to the current planning system. The vast majority of changes are unlikely to directly impact upon the County Council. However, of most significant consequence is the proposed revised formula for calculating the housing delivery target that each planning authority should aim to plan for, details of which are set out in section 3 of this report.

2 Outline of the key reforms being proposed

2.1 The proposed reforms set out in the White Paper are heavily focussed on housebuilding and are clearly driven by the Government's clear aim of delivering a minimum of 300,000 new houses per annum. Some of the more relevant reforms being proposed are;

- The new system will remain plan-led (probably to a greater extent) with land across the whole of England being placed into one of three categories – growth, renewal and protection. Unlike now, the Local Plans are expected to solely focus on area/site specific policies and requirements. Generic development management policies will be covered in a revised version of the NPPF. With a strong emphasis on improving design standards in new development, Design Codes are also expected to become a

feature. There will be a requirement to prepare a Local Plan within a 30 month timeframe (at present, the average Local Plan takes seven years to prepare).

- Land designated for “growth” will in effect benefit from outline planning permission. “Renewal” areas are likely to benefit from extended permitted development rights through Development Orders. Development in “protection” areas will still require the submission of planning applications as currently happens.
- How Local Plans are examined will change, as will the requirements for some of the currently prescribed supporting evidence (e.g. Sustainability Appraisals, Strategic Environment Assessments).
- Re-introduction of “top-down” housing requirements. The Government will determine the housing requirement for each planning authority area and this will be binding. As well as housing need, the requirement figures will also factor in environmental constraints.
- Scrapping the requirement for Local Plans to have been prepared in accordance with the Duty to Co-operate. On the matter of strategic planning and the need to have co-ordinated plans for growth and associated infrastructure, the White Paper states, “further consideration will be given to the way in which strategic cross-boundary issues, such as major infrastructure or strategic sites, can be adequately planned for, including the scale at which plans are best prepared in areas with significant strategic challenges”.
- Scrapping Section 106 agreements and the Community Infrastructure Levy (CIL) and replacing with a national Infrastructure Levy. This levy will be paid on completion of developments. The Government acknowledge that this may impact on the ability to get new and improved infrastructure in place before developments are occupied and therefore suggest that Council’s consider forward funding the necessary infrastructure improvements. The Infrastructure Levy will also be used to fund affordable housing. Depending on how planning authorities balance the need for affordable housing against the need to fund infrastructure improvements, funding affordable housing and infrastructure from the same “pot” could undermine the ability for infrastructure providers, such as ourselves, to secure the funding that is necessary to cover our own costs.
- The Government still envisage affordable housing being delivered ‘on site’ as part of market led developments. However, the current method of securing such provision in the majority of cases (S.106 agreements) will not be able to be used. Instead the White Paper states that “this could be secured through in-kind delivery on-site, which could be made mandatory where an authority has a requirement, capability and wishes to do so”. The cost of doing this (against the market value) would be offset against the contribution that would need to be made under the Infrastructure Levy.
- Seeking to capture infrastructure funding contributions from developments that have been enabled through Permitted Development rights (e.g. office to residential).
- Greater digitisation of the planning system, with a move away from some of the “traditional” consultation methods and a clear desire to have more people engaged with planning who traditionally have not done so (i.e. younger people).
- Decision making for planning applications – it is proposed that “*the delegation of detailed planning decisions to planning officers where the principle of development has been established, as detailed matters for consideration should be principally a matter for professional planning judgment.*”
- Stronger planning enforcement powers, including higher fines.
- Resourcing of planning functions is recognised as a matter that needs to be addressed as part of the reforms. Potential options include using part of the Infrastructure Levy revenues to fund planning functions. There is no indication as to whether or not statutory planning consultees will ‘benefit’ from resourcing proposals. Planning application fees will continue to be set nationally and some regulation of pre-application fees is proposed.

2.2 The changes that are being consulted upon, with regards to the current planning system, propose;

- to temporarily raise the threshold on the size of sites that developers do not need to contribute to affordable housing (either 40 or 50 units for an 18 month period);
- to prescribe that 25% of all affordable housing secured through developer contributions should be First Homes, which are homes sold to first time buyers at a 30% discount from the market value. These homes may also be available to key workers.
- to extend the scope for seeking Permission in Principle for housing-led developments;
- a revised method for assessing the amount of housing to be delivered through Local Plans, with the aim of increasing the overall number of houses being planned for and delivered.

3. Potential implications for ESCC

White Paper

3.1 Whilst the reforms are likely to have a greater impact upon the District and Borough Councils in the county (as well as the South Downs National Park Authority), there are considered to be significant implications for the County Council, particularly where we perform a statutory consultee role and/or are a key infrastructure provider.

3.2 The reforms are almost certainly going to see a shift in focus to more of a need to influence planning decisions through the Local Plan process (and potentially a greater level of evidence concerning issues such as education provision, flood risk and transport at this stage), as well as the Design Codes that will emerge, and less of a need for input at a planning application stage.

3.3 The detail for the reforms around capturing development value for infrastructure provision is going to be key to the County Council. On the face of it, the reforms may increase the need for delivery of new/improved infrastructure to be undertaken by ourselves, rather than the current approach that sees much of the infrastructure necessary to make a development acceptable (especially site specific highway infrastructure) being undertaken by third parties (e.g. developers). If this is what materialises then the implications on the County Council will be substantial as it could involve the need to forward fund infrastructure improvements and deliver them ourselves. Once the drafts of primary and secondary legislation begin to emerge, along with revisions to the NPPF, a greater understanding of the impact from these reforms will be able to be understood.

3.4 The proposal around delegation of more planning application decisions to officers may have an impact upon the type of applications that are referred to the County Council's Planning Committee. However, with the White Paper being silent on waste and minerals planning, and there being little further detail on how such delegation would work, qualifying what this impact is cannot be undertaken at this stage.

3.5 Given the lack of detail around many of the reforms, the full implications for the County Council cannot be fully gauged at this stage. However, particularly through continued dialogue with the District and Borough Councils, it is essential that when the details do begin to emerge that the County Council reacts to this, which may necessitate changing how we perform, prioritise, and resource our County Planning Authority and statutory consultee roles.

Reforms to the current system

3.6 Paragraph 2.2 mentions the revised methodology for calculating the amount of housing local planning authorities should be planning for. The table below illustrates what this methodology will mean for East Sussex authorities (all figures are per annum).

LPA	Current Local Plan requirement	Average delivery (last 3 years)	Current Standard Method	Proposed new Standard Method
Lewes	345	290	483	800
Hastings	215	193	451	453
Rother	335	241	736	1,173
Eastbourne	239	153	675	486
Wealden	450	622	1,225	1,199
Total	1,584	1,499¹	3,570	4,111

3.7 It should be recognised that the housing need figures in the final two columns are the starting point for the planning authorities establishing their Local Plan housing delivery targets. Current national policy expects authorities to “leave no stone unturned” in attempting to plan for these levels of need and, if they are unable to do so and through the Duty to Co-operate, seek to ensure that any shortfall is planned for in other authority areas in the locality/common housing market area. In East Sussex, the reality is that the housing need figures (current and proposed) are almost certainly not going to be deliverable due to a combination of a lack of developable land and the likely inability of the house building industry (private and public) being currently capable of delivering such a dramatic increase in housing units. However, it is almost certain that the levels of need are going to result in a continuation of the upward trend in the number of housing proposals being pursued in the county and, in turn, the number of proposals that are granted consent. Inevitably this will maintain and probably increase the demand on the Councils’ statutory consultees and those services tasked with planning and delivering infrastructure.

3.8 The other proposals for the current planning system, which are being consulted upon, are not likely to impact upon the County Council to any great extent.

4. ESCC Response to the White Paper consultation

4.1 Some of the proposals set out could be welcomed by the County Council (e.g. abolition of the five year housing land supply requirement), although with the caveat that this is somewhat dependent on the detail that follows in legislation and policy. However, some of the proposed reforms do, on the face of it, present potential difficulties/concerns and/or require some clarification. These are;

- Scrapping of S.106 agreements – these are currently used by the County Council, particularly in our role as the Highway Authority, to secure the delivery (by the developer) of on and off-site highway and wider transport improvements that are site specifically necessary to make the development acceptable in transport terms. There needs to be a mechanism to allow for this to continue (i.e. a way of securing works to be undertaken under Section 278 of the Highway Act). This could be through an ‘in kind’ contribution that is used to offset some of what the developer would pay through the Infrastructure Levy. Should this not happen, the proposed approach will inevitably increase the burden for the County Council to provide infrastructure.
- The White Paper seems to assume that monies raised through an Infrastructure Levy will be more than sufficient to cover the cost of necessary infrastructure. This is certainly not the current case in East Sussex, with the current gap between infrastructure identified in Delivery Plans and what money is/is expected to be available being around 50% of the total infrastructure cost. 25% of CIL receipts going to town/parish councils further contributes to the funding gap for infrastructure and we

¹ Estimated figure for the period between 1 April 2017 and the 31 March 2020. For the previous 3 year period the figure was 1,026 completions per annum.

would ask that this current arrangement is reviewed. In light of the aforementioned, proposals such as the Infrastructure Levy being used to reduce Council Tax are nonsensical.

- Strongly oppose the suggestion that infrastructure providers, such as County Councils, could forward fund the provision of infrastructure, particularly when there is no guarantee that Infrastructure Levy monies would be subsequently forthcoming to cover these upfront costs. The County Council will also be opposed to increase its borrowing, and the risks that would entail, in order to forward fund infrastructure schemes on the basis of increased Council Tax receipts further on down the line.
- Identify that the White Paper has no mention of waste and minerals planning and highlight that clarification is needed by the Government as to how the reforms will impact upon this particular sector of planning.
- The White Paper has a heavy focus on housing, with very little being said on other land uses (e.g. employment, retail, etc). Clarification should be sought as to how such matters will be addressed and it is also suggested that the laudable drive for planning for beautiful and sustainable places needs to factor in public health considerations.
- Whilst we can fully understand the need to speed-up the process of getting a Local Plan in place and adopted, the 30 month period does seem extremely optimistic, particularly given the need to “front load” much of the evidence required to determine growth and renewal areas and if the resourcing of planning functions is not addressed appropriately.
- The White Paper has not addressed how strategic, cross-boundary planning issues will be addressed. Whilst the abolition of the Duty to Co-operate is broadly welcomed, as it has generally been an ineffective mechanism for undertaking strategic planning, the reforms do need to address the problem of the current planning system not being effective for enabling the likes of large-scale and cross-boundary infrastructure proposals to be planned for, and linking this to housing and employment growth. Having statutory plans just being prepared at an individual district/borough level is not an effective way to undertake strategic planning. Any proposals for strategic planning need to also recognise the need for regional co-ordination on the matter of waste and minerals planning.
- The commitment to review the resourcing of planning functions is welcomed. However, it is absolutely essential that this also considers the resourcing that is required for statutory consultees in the planning process.
- The determination of the housing targets needs to consider current infrastructure provision and whether it is feasible for additional capacity to be delivered in support of housing growth. Consideration also needs to be given to the need to balance housing growth with employment opportunities. Two local planning authority areas in East Sussex (Eastbourne and Hastings) are urban areas with no/limited scope for outward expansion. Meeting substantial housing targets in such areas is likely to be at the cost of a loss of employment sites. No indication is given as to how an area’s ambitions for growth will be factored into determining these housing targets.
- Express concern that on the face of it, the proposals seemingly erode the democratic accountability that currently exists within the planning system. Contrary to popular opinion (particularly the development industry), it is the view of the County Council that having decisions democratically made can improve the timeliness and robustness of the decision making process and minimise the chances of subsequent challenge and recourse.
- Welcome the proposal for further digitisation of the planning system. This is something planning authorities have been seeking to do anyway, but dated legislation often necessitates the need to undertake measures, particularly around consultation, that can be costly, time consuming and with very little discernible benefit (e.g. placing hard copies of Local Plan consultations on deposit, local newspaper adverts for certain types of planning applications, etc). For the digitisation of the planning system to be effective it will also be necessary for certain key organisations, particularly the Planning Inspectorate, to work in this way.

4.2 It is suggested that the response to the consultation also suggests what the County Council wishes to see from the planning reforms. It is recommended that this includes a formal and statutory strategic level of plan-making, which could be used to determine and set binding targets for housing growth, as well as setting out a broad strategy for distribution and what strategic infrastructure will be necessary alongside this. The reforms should also allow for increased scope around the use of planning conditions to secure site specific infrastructure (in the absence of S.106 agreements) and it is suggested that the provision of affordable housing is dealt through a separate funding stream to the Infrastructure Levy.

4.3 As well as the County Council's own response to the consultation, there is also an intent to contribute to/endorse responses prepared by organisations and networks that the County Council is part of. This may include the County Council Network, the South East Waste Planning Advisory Group and a possible response on behalf of all East Sussex planning authorities.

4.4 Should the Lead Member agree with the outline of the suggested points to raise in a response, a written response highlighting these points will be prepared as the County Council's formal submission. Where necessary/relevant, further explanation and practical examples will be given in order to further articulate the points we wish to make. The final response will be submitted by e-mail prior to the deadline of the 29 October.

5. Conclusion and Reason for Recommendations

5.1 The Lead Member for Transport & Environment is recommended to note the reforms being proposed, to note the potential implications for ESCC; and to endorse the key points that will be raised in the County Council's consultation response and provide delegated authority to the Director of Communities, Economy & Transport to expand upon these points in a full written response to the consultation prior to the deadline of the 29 October.

RUPERT CLUBB

Director of Communities, Economy and Transport

Contact Officer: Edward Sheath; 07725 622407; Edward.sheath@eastsussex.gov.uk

LOCAL MEMBERS: All

BACKGROUND PAPERS: None