

Committee: Policy, Resources and Economic Development Committee	Date: 21 October 2020
Subject: Planning for the Future, White Paper	Wards Affected: All
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Summary

The Government has recently announced several planning reforms, some confirmed and in place and other proposals for consultation. These include changes to the Use Classes Order (September 2020); reforms proposed in the Planning for the Future, White Paper (August 2020); and changes proposed to the current planning system (August 2020).

This paper gives an overview of the current changes and proposed reforms. The recommended response on behalf of the Council to the Planning White Paper consultation is set out in Appendix A. This includes reference to concerns raised by the Local Government Association (LGA) regarding keeping planning local, and those made by the Wildlife Trusts regarding the need to address nature and climate issues. Appendix B provides a one-page guide to the use classes order changes.

Conclusions to the proposed consultation response include support for the need to reform and streamline planning, but that this should not be at the expense of local decision making and public involvement. Reforms should not be rushed and consideration should be given to the wider issues of housing delivery nationally rather than solely blame the planning system. Reforms presents an opportunity for to make a real difference on issues such as climate change, health and wellbeing, the natural environment and active travel. Unfortunately, it is considered that the White Paper is too quiet on many of these matters or that further detail is required.

Recommendation

Members are asked to:

R1. Approve the response to the Planning for the Future White Paper consultation as set out in Appendix A.

Main Report

Introduction and Background

1. The Government has recently announced several planning reforms, some confirmed and in place and other proposals for consultation. These include:
 - a. Use Classes Order (September 2020);
 - b. Planning for the Future, White Paper (August 2020); and
 - c. Changes to the current planning system (August 2020).

Use Classes Order

2. The Government is implementing a comprehensive review of planning policy as it relates to the high street, focusing on use classes and permitted development rights. Changes to the Use Classes Order came into force on 1 September 2020. The aim of the changes is to allow greater flexibility in town centres to change uses without the need for planning permission. The changes could make current shop-front policies obsolete, restricting the ability of local planning authorities to control the mix of uses.
3. The changes provide for three new use classes:
 - a. Class E (Commercial, business and service);
 - b. Class F.1 (Learning and non-residential institutions); and
 - c. Class F.2 (Local community).
4. These changes combine Shops (A1), financial/professional services (A2), cafés/restaurants (A3), indoor sports/fitness (D2 part), medical health facilities (D1 part), and creche/nurseries and office/business uses (B1), into a new single Use Class E.
5. Many development plans have sought to prevent the decline of Class A1 shop uses in town centres by restricting changes of use. The new approach aims to promote the vitality and viability of town centres by allowing more diversification in a way that can respond to rapid changes in the retail and leisure sectors. This results in a 'let the market decide' approach.
6. Other changes introduce more restrictions rather than flexibility. Partly in response to the impact of the Covid-19 crisis, there is added protection against the loss of learning, non-residential and community facilities, including museums public halls and local shops. These uses are now included in new Classes F1 and F2. Other potential 'bad neighbour' town centre uses have been placed in the list of sui generis uses, with no permitted changes of use (e.g. pubs/bars (A4), takeaways (A5), cinemas and live music venues).
7. Appendix B, courtesy of Lichfields, provides a one-page guide to the use classes order changes.

8. Immediate implications from the changes are not clear. The Council will need to consider policies and strategies for town centres. This is being considered through the current Local Development Plan examination, with questions received from the appointed Planning Inspectors on the subject and a response provided (informed by new retail evidence). The issue will also be covered in current work to prepare a new Economic Development Strategy, alongside evidence that has been presented to Policy, Resources and Economic Development Committee during 2020.

Planning for the Future, White Paper

9. The Government has published a White Paper, titled 'Planning for the Future'. The White Paper identifies several problems with the current planning system that it intends to address, including: that it is too complex; planning decisions are discretionary rather than rules-based; that it takes too long to adopt a Local Plan; that it is based on 20th-century technology; and development should be more beautiful, sustainable and better connected. The changes focus on three 'Pillars'.

White Paper Pillar One: Planning for Development

Main changes to plan-making

10. A zonal system is proposed whereby local plans designate land into three categories:
 - a. **Growth areas** suitable for substantial development including new settlements and urban extensions and which would have automatic outline permission with faster routes for detailed consent. The consultation also asks whether new settlements should be consented under the Nationally Significant Infrastructure Projects regime, i.e. Development Consent Orders (DCOs);
 - b. **Renewal areas** suitable for development, largely on urban and brownfield sites, and which would be permitted either through a prior approval process, a faster planning application process or a Local or Neighbourhood Development Order; and
 - c. **Protected areas** where development would continue to be restricted such as Green Belt, Conservation Areas, Wildlife Sites, areas of significant flood risk and important areas of green space.
11. The White Paper promotes a simplified, streamlined and more engaging plan-making process with proposals including:
 - a. Removing general development management policies to national policy to create much shorter and focused Local Plans;
 - b. Replacing the 'tests of soundness' with a single statutory "sustainable development" test;
 - c. Removing the Duty to Co-operate test;
 - d. Local plans to be more visual and map-based, to follow a standard template and based on the latest digital technology; and
 - e. Statutory duty to adopt the new style plan within 30 months of the new legislation coming into force or 42 months for councils with a recently adopted plan with sanctions for failure.

12. A standard method for establishing housing requirement figures to distribute the Government's national housebuilding target of 300,000 new homes annually is proposed. This crosses over with the changes proposed to the current planning system (see below). This would amend the current standard method to include affordability changes over time, remove the cap on the limit of the increase for individual local authorities and include a buffer to account for a drop-off rate between permission and delivery. Land constraints, such as the Green Belt, can be factored in once existing brownfield land for housing has been optimised.
13. A stronger emphasis on the faster build-out rates by requiring masterplans for major sites to include a variety of development types by different builders to allow more phases to come forward together. The requirement to demonstrate a five-year land supply would be removed. The Housing Delivery Test looking backwards at new homes built against the housing requirement would remain.
14. Areas identified for growth would be automatically granted outline planning permission for the principle of development through the adoption of a Local Plan. There would be a requirement that a masterplan and site-specific design codes are agreed as a condition of allocation in the Plan. Full planning permission (resolving outstanding issues – not the principle of development) would then be achieved through one of three streamlined and faster consent routes:
 - a. Reformed 'reserved matters' process;
 - b. Local Development Orders (LDOs) could be prepared in parallel with the Local Plan and linked to a master plan and design codes; or
 - c. Development Consent Order (DCOs) under the Nationally Significant Infrastructure Projects regime (this would be for exceptionally large sites, such as a new town).
15. In renewal areas there would be a presumption in favour of development. Consent in renewal areas would be granted in one of three ways:
 - a. For pre-specified forms of development, a new permission route giving automatic consent if the scheme meets design and other 'prior approval' requirements;
 - b. Faster planning application process for other types of development determined in the context of what the Local Plan says the area or site is appropriate for with reference to the National Planning Policy Framework; or
 - c. Local or Neighbourhood Development Order.
16. Proposals in growth or renewal areas which are different to the Local Plan could come forward through a specific planning application. The Government says that this route should be exceptional and that the plan-led approach would be strengthened to provide certainty and confidence in the Plan.
17. In protected areas, planning applications could be made for development proposals (unless the proposal utilises Permitted Development Rights)

and would be judged against policies within the National Planning Policy Framework.

18. Neighbourhood Plans would still part of the plan-making process, however, their role would be focused on local design requirements and they would not be able to allocate or zone land for development.

Main changes to decision making (Development Management)

19. The White Paper seeks faster and more certain decision-making with firmer deadlines. The established period of 8 or 13 weeks for determining an application is proposed to be a firm deadline. 'Extensions of time' which are used currently to agree an extended determination date with the developer are criticised.
20. Decision-making would make greater use of digital technology, including a new case-management software (this would automate routine processes such as knowing whether applications are "within the rules"); data-rich planning registers; digital templates; standardisation of technical information and standard national planning conditions.
21. Delegation of planning decisions would be given to Planning Officers where the principle of development has been established (i.e. through designation as growth or renewal land within a local plan).
22. There would be an automatic refund of planning fees if the application is not determined within the time limit and deemed approval of planning permission if there has not been a timely determination.
23. Applicants who are successful at appeal will receive an automatic rebate of their planning application fee. The National Planning Policy Framework (NPPF) would be also be updated.
24. The Government propose to strengthen enforcement powers and sanctions and the nature of permitted development would be widened, to include development of popular and replicable forms of development.
25. A quicker and simpler framework for assessing environmental impacts (Environmental Impact Assessments) is proposed.
26. Explore whether suitably experienced architectural specialists can have earned autonomy from submitting routine listed building consent applications.

White Paper Pillar Two: Planning for Beautiful and Sustainable Places

Main changes to design and sustainability

27. The headline objective is that planning should create beautiful and sustainable places. This leads on from the recommendations of Building Better, Building Beautiful Commission 2019.

28. Planning is a powerful tool to create places and new communities, not simply concentrate on building design.
29. To augment improvements in decision making, local councils will be expected to set out detailed design parameters and specific standards for their areas. A National Model Design Code will be published in the autumn setting out how this may be achieved.
30. These design guides and design codes should be developed through robust public engagement and emphasise local character.
31. There is a recognition that this may require a step-change in design skills, prioritisation and leadership available to local council's as well as the need to improve resourcing for planning departments more generally. The role of Homes England, for example in its Garden Towns and Villages programme, will be reviewed to assist with this.
32. Emphasis is made on proposals for net gains to the quality of the built and natural environments, moving away from 'no net harm'.
33. Fast-track for beauty process whereby proposals that comply with pre-established good design principles (informed by community preferences) would be expediated through the planning process. Proposals to make all new streets tree-lined.
34. Update the framework for listed buildings and conservation areas to allow for sympathetic changes to support their continued use and address climate change.

White Paper Pillar Three: Planning for Infrastructure and Connected Places

Main changes to developer contributions for infrastructure

35. The current system of planning obligations under Sections 106 should be consolidated under a reformed, extended 'Infrastructure Levy'. The existing system of S106 agreements and Community Infrastructure Levy would be removed. The new Levy would:
 - a. Be based on a flat-rate set nationally at either a single rate, or at area-specific rates;
 - b. Be based on the principle of capturing a proportion of land value uplift to fund infrastructure and affordable housing;
 - c. be charged on the final value of the development;
 - d. be levied at the point of occupation;
 - e. include a value-based minimum threshold below which the levy is not charged;
 - f. only be charged on the proportion of the value that exceeds the threshold;
 - g. maintain an exemption for self and custom build development;
 - h. enable the option of continuing in-kind on-site delivery of affordable housing; and

- i. Maintain the 'Neighbourhood Share' associated with CIL.
36. By primarily seeking financial contributions, the proposals are seeking to move the delivery responsibilities from developers to local authorities. This raises issues of how infrastructure or affordable housing can be forward funded as the levy is due on occupation. The proposals seek to address this by allowing local authorities to borrow against the future Levy receipts. Other changes to deliver the reforms include:
 - a. Introducing a new performance framework across all planning functions;
 - b. Providing stronger enforcement powers and sanctions;
 - c. Greater regulation of discretionary pre-application charging; and
 - d. Reducing income local planning authority's income to cover their overall planning costs.

Next steps

37. The White Paper consultation will be followed by separate and more detailed consultations on specific elements of the proposed reforms. The Government advise these will be starting from the autumn. Subject to the outcome of these consultations, the Government will seek to bring forward legislation and policy changes including an updated National Planning Policy Framework to implement reforms as soon as possible.

Changes to the Current Planning System

38. Alongside the White Paper consultation, the Government launched a separate and more technical consultation for continued incremental changes to the current planning system. Four main proposals to improve the effectiveness of the current planning system were proposed:
 - a. Changes to the standard method for assessing local housing need;
 - b. Securing of First Homes through developer contributions in the short term until the transition to a new system;
 - c. Supporting small and medium-sized builders by temporarily lifting the small sites threshold below which developers do not need to contribute to affordable housing; and
 - d. Extending the current Permission in Principle to major development.

Standard method for assessing housing numbers in strategic plans

39. Short-term adjustments to the standard method for establishing minimum housing requirement figures to include:
 - a. An option for the baseline to be based on a proportion of the size of the existing housing stock if greater than household growth projections;
 - b. Two adjustments for market signals which take account of affordability changes over a 10-year period; and
 - c. Removal of the cap which limits the level of the increase for individual local authorities.
40. The changes result in a reduction to the annual housing requirement for Brentwood Borough, from 453 new homes per year under the current standard method to 393 new homes per year under the proposed new standard method (reduction of 60 homes per year or 13%). This is unlike most other authorities

across London and the South East, where significant increase can be seen. Adjoining authorities see a mixture of outcomes with reductions for Basildon Borough (down by 181 homes or 18%), and Epping Forest District (down by 85 homes or 9%). Increases can be seen for Chelmsford City (up by 611 homes or 64%), Thurrock Borough (up by 336 or 29%), and London Borough of Havering (up by 337 homes or 17%).

41. This issue is covered within longer term planning reforms proposed in the Planning White Paper consultation. It may become an issue for discussion through the Local Development Plan examination, although it should be noted that this is currently a proposals and the standard method for calculating housing need still represents a minimum figure. The delivery of affordable homes as a proportion of market homes built out was considered as part of the Government commissioned independent review of build out, led by the Rt Hon Sir Oliver Letwin MP (see background papers for link). This concluded that market absorption rates meant that allocating more land for new homes would not alone result in an increase to affordable housing supply.

Delivering First Homes

42. The Government proposes that:
 - a. First Homes should be sold at a minimum discount of 30% from market price;
 - b. Minimum of 25 per cent of all affordable housing units secured through developer contributions should be First Homes (subsequently be secured through the extended 'Infrastructure Levy'); and
 - c. Replace the existing entry-level exception sites policy with a First Homes exception site policy.

Supporting small and medium-sized developers

43. The Government proposes to raise the national threshold for contributions for affordable housing of up to 40 or 50 units for an initial period of 18 months, to reduce the burden of planning contributions on small and medium enterprises (SMEs).

Extension of the Permission in Principle consent regime

44. The Government proposes to remove the restriction in the current Permission in Principle regulations on major development. This would mean that proposals for major development (i.e. 10 or more dwellings) could be submitted under the Permission in Principle route, rather than a full planning application or outline planning application being made. Environmental Impact Assessment (EIA) development would continue to be excluded from this consent regime.

Issue, Options and Analysis of Options

45. This report focuses on how the proposals of the White Paper can be responded to. Issues are summarised through the proposed response (Appendix A). The Government has set out within the White Paper that not every aspect of the system has been covered. Proposals will need further development pending

the outcome of the consultation. Therefore, specific detail is awaited on the proposals through legislative changes, national policy and guidance.

46. At Ordinary Council on 7 October 2020, a motion was agreed regarding the Council being a signatory to the Local Government Association (LGA) statement that the planning system in England should be kept local (item 9, motion 3). The LGA statement explains how the COVID-19 pandemic has demonstrated the spirit of communities in fighting the virus and that as we move forward, it should be they who drive the national recovery with the power and voice to shape their local areas (see background papers for link to LGA statement). It also states that any suggestion that planning is a barrier to housebuilding is a myth, with nine in 10 planning applications approved by councils, and more than a million permitted homes in the last decade not yet built. This statement is made in the context of the planning reforms being proposed by the Government. Recently published statistics from the Government (Ministry of Housing, Communities and Local Government), shows that the Council's Development Management service ranks in the top 20 nationally for percentage of applications decided in time (99%), which also shows the percentage of granted applications is 77%.
47. The Wildlife Trusts' view following their analysis of the White Paper, sets out that the proposed reforms will increase the threat to nature in England and do little to create better homes and communities for wildlife and people (see background papers for link to Wildlife Trusts' analysis and response). The Wildlife Trusts are calling on the Government to commit to five principles to be applied to future planning that would ensure the reforms can address the climate and ecological crises and people's need for nature around them. One of these principles would, for the first time, protect new land put into nature's recovery. For this, The Wildlife Trusts propose a new protection mechanism called Wildbelt. The five principles are:
 - a. Wildlife recovery and people's easy access to nature must be put at the heart of planning reform by mapping a Nature Recovery Network;
 - b. Nature protection policies and standards must not be weakened, and assessment of environmental impact must take place before development is permitted;
 - c. Address the ecological and climate crises by protecting new land put into recovery by creating a new designation – Wildbelt;
 - d. People and local stakeholders must be able to engage with the planning system; and
 - e. Decisions must be based on up-to-date and accurate nature data.
48. The context of the LGA statement and the Wildlife Trusts view is provided in the proposed Council response to the White Paper consultation.

Reasons for Recommendation

49. The Council is the local planning authority for the borough. It is responsible for planning decisions and planning for the future. The White Paper proposes reforms that will impact on those processes. Appendix A sets out a proposed response to the consultation for Members to consider.

Consultation

50. The White Paper was published on 6 August 2020. Consultation is taking place for 12 weeks until 29 October 2020.

References to Corporate Strategy

51. The proposed planning reforms in the White Paper are cross-cutting through all the themes of the Council's Corporate Strategy "Brentwood 2025".

Implications

Financial Implications

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52. Specific local financial implications will be clearer once more clarity on the proposed changes are published through primary or secondary legislation and updates made to the National Planning Policy Framework. Concern is raised in the consultation response regarding the uncertainty of proposals to shift responsibility for infrastructure delivery from the development industry to the local authority. There is increased financial risk with this approach, although details are not yet known.
53. Changes to the Use Classes Order could see a reduction in the number of applications received for change of use, which may have implications for projected income to the Council. Whilst this is not expected to be a considerable figure, more work is needed to revise income projections as a result of the changes.

Legal Implications

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54. White papers are policy documents produced by the Government that set out their proposals for future legislation. Subject to the outcome of this consultation, legislation and policy changes will need to be brought forward to implement reforms. Proposals for local plan reform, changes to developer

contributions and development management would require primary legislation followed by secondary legislation. The Government can implement policy changes, including to set a new housing requirement, by updating the National Planning Policy Framework in line with the new legislation.

Economic Implications

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55. References to the economy feature heavily in the White Paper. Proposed planning reforms are based on the need to rebalance the economy and the importance of the construction sector as part of economic recovery. Reforms are likely to have a positive impact on the wider economy. Specific local economic implications will be clearer once more clarity on the proposed changes are published through primary or secondary legislation and updates made to the National Planning Policy Framework.
56. Changes to the Use Classes Order are likely to have implications for town and village centres. These changes have been introduced to allow greater flexibility, providing the market with the opportunity to lead. This should result in economic growth, a key reason the Government has introduced the changes. The Council should continue working with local businesses and consider potential changes as part of the emerging Economic Development Strategy.

Equality and Diversity Implications

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57. The Government's proposed planning reforms include aims for all communities, families, groups and individuals to have a say in the future of the places where they live. Questions are included on whether further reforms could broaden access to planning for people in diverse groups.

Health & Wellbeing Implications

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58. The White Paper sets out that one of the reasons for planning reform, beyond incremental changes to the existing system, is informed by the Government-appointed Building Better, Building Beautiful Commission (Living with beauty: promoting health, well-being and sustainable growth, 2020). Pillar two of the proposed reforms, "planning for beautiful and sustainable places", concentrates on the need for quality design. Whilst this is based on principles of improved health and wellbeing set out within the Building Better, Building Beautiful Commission, there is little specific mention of the importance of this in the

White Paper. The Council's proposed response to the consultation highlights the lack of focus of health and wellbeing.

Other Implications (where significant) – i.e. Health and Safety, Asset Management, Risk Management, Section 17 – Crime & Disorder, Sustainability, ICT.

59. The White Paper sets out proposals that include better engagement with local communities through improved technology. The Council has made strides to use digital methods in both the decision-making and plan-making elements of the planning system. Moving forward, and subject to the outcome of the consultation, additional investment in necessary technology may be required as part of budget setting for the planning service and associated corporate needs.

Background Papers

- Ministry of Housing, Communities and Local Government, White Paper: Planning for the Future, August 2020 (<https://www.gov.uk/government/consultations/planning-for-the-future>)
- Brentwood Borough Council, Ordinary Council, 7 October 2020, Item 9 Notices of Motion, Motion 3 regarding Local Government Association and keeping planning local (<https://brentwood.moderngov.co.uk/ieListDocuments.aspx?CIId=128&MIId=2183&Ver=4>)
- Local Government Association: Keep Planning Local, the LGA's open statement on planning (<https://local.gov.uk/keep-planning-local>)
- The Wildlife Trusts, "Government's planning reforms must address the nature and climate crisis", Thursday 17 September 2020 (<https://www.wildlifetrusts.org/news/governments-planning-reforms-must-address-nature-and-climate-crisis>)
- Ministry of Housing, Communities and Local Government and HM Treasury, Independent Review of Build Out Final Report, October 2018 (<https://www.gov.uk/government/publications/independent-review-of-build-out-final-report>)

Appendices to this report

- Appendix A: Brentwood Borough Council response to the Planning for the Future White Paper, October 2020
- Appendix B: Guide to Changes to the Use Classes Order in England, Lichfields, July 2020