

FAREHAM

BOROUGH COUNCIL

Report to the Executive for Decision 12 October 2020

Portfolio:	Planning and Development
Subject:	Government consultation on White Paper ‘Planning for the Future’
Report of:	Director of Planning and Regeneration
Corporate Priorities:	Providing Housing Choices Protect and Enhance the Environment

Purpose:

To consider a report on a White Paper consultation on future changes to the planning system, entitled ‘Planning for the Future’ and to seek approval to the broad approach to the response from the Council.

Executive summary:

On the 08 August 2020, the Government announced a consultation on a White Paper entitled ‘Planning for the Future’. This consultation includes twenty-four proposals for significant overhaul of the planning system, grouped within three ‘pillars’;

- Pillar One – Planning for Development
- Pillar Two – Planning for beautiful and sustainable places
- Pillar Three – Planning for infrastructure and connected places

The report will provide an overview of the proposals within the consultation, and an indication of how it is proposed that the Council will respond.

Recommendation:

It is recommended that the Executive:-

- (a) considers the content of the report and approves the suggested approach to the Council’s response; and
- (b) delegates authority for the final consultation response to the Director of Planning and Regeneration, following consultation with the Executive Member for Planning and Development.

Reason:

To consider the 'Planning for the Future' White Paper consultation from the Ministry of Housing, Communities and Local Government.

Cost of proposals:

There are no direct financial implications related to responding to this consultation.

Appendices: None

Background papers: None

Reference papers: 'Planning for the Future' White Paper consultation document
<https://www.gov.uk/government/consultations/planning-for-the-future>

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Executive Briefing Paper

Date:	12 October 2020
Subject:	Government consultation on White Paper 'Planning for the Future'
Briefing by:	Director of Planning and Regeneration
Portfolio:	Planning and Development

INTRODUCTION

1. The 'Planning for the Future' consultation proposes reforms of the planning system to 'streamline and modernise the planning process, bring a new focus to design and sustainability, improve the system of developer contributions to infrastructure, and ensure more land is available for development where it is needed'.
2. The consultation was launched on 8 August 2020 and runs until 29 October 2020. The consultation document includes a package of proposals for reform of the planning system in England, including for plan-making, development management, developer contributions for infrastructure and enforcement.
3. The consultation contains twenty-four proposals aimed at addressing some familiar criticisms of the current planning system; the planning system is too complex, Local Plans take too long and the public has lost trust in the system.
4. The proposals are presented against three 'pillars';
 - Pillar One – Planning for Development
 - Pillar Two – Planning for beautiful and sustainable places
 - Pillar Three – Planning for Infrastructure and connected places
5. Running through the pillars are the following main themes for reform;
 - Streamline the planning process with more democracy taking place more effectively at the plan making stage
 - A radical, digital-first approach to modernise the planning process, moving from a process based on documents to a process driven by data.
 - A new focus on design and sustainability

- Improved infrastructure delivery via the reform of CIL and planning obligations (S106) to a nationally-set value-based flat rate charge called 'the Infrastructure Levy', which will have fewer exemptions and a wider scope.
 - Ensure more land is available for the homes and development people need and to support renewal of towns and city centres, via the new standard methodology for housing need.
6. It is prudent to point out that the detail of precisely how and when many of these changes would be brought about is not contained in the consultation. This makes it difficult to agree or disagree with the proposals until the detail of any new legislation or guidance is available. Bringing in these reforms will not happen quickly and the consultation document suggests that many will require primary legislation or further consultation. The suggestion is therefore that many of these proposals will take a number of months, if not years to be introduced.
7. This report will describe the key proposals outlined in each of the three pillars and identify the suggested approach to the Council's consultation response.

Pillar One - Planning for Development

8. This pillar contains the greatest number of, and arguably most significant, proposals. For the purposes of this report, these have been grouped according to which part of the planning system they impact.

Local Plans

9. The first proposal to consider is the move to use Local Plans to categorise areas of land as either for growth, renewal or protection. Growth areas would be 'suitable for substantial development' and the consultation document provides examples such as 'new settlements, urban extensions and areas for redevelopment'. It is possible to countenance that a proposed development such as Welborne would be classified as being a growth area. Renewal areas are described as being 'suitable for development' particularly smaller scale development including infill, and the consultation document suggests that existing built-up areas would be classified for 'renewal'. Areas that are protected would justify 'more stringent development controls', and would include nationally defined areas, such as Green Belt, AONB, Conservation Areas, areas of flood risk, as well as locally defined areas. **It is possible that designations such as Strategic Gaps or Areas of Special Landscape Quality might be considered as such locally defined areas to protect, and this point should be included in the Council's response.**
10. Within the Local Plan, clear 'rules' for development would be established for each area, or sub-area, identifying specific site- or area-based requirements for development. The consultation document suggests that 'general policies' would not be permissible within the Local Plan. Instead, masterplans and design codes would be expected, such as the design codes to be established for Welborne and the masterplanning work that underpins many of the large strategic sites within Local Plan documents. The White Paper builds upon the current 'plan-led' system by enhancing the link between Local Plans and planning permission. Sites identified as growth areas and described with masterplans and design codes would be granted outline planning permission automatically upon adoption of the Local Plan. This would mean that the principle of development in terms of scale and use is accepted, with all matters reserved for a subsequent planning applications. Similarly, depending on the area-specific rules

written for renewal areas, a statutory presumption in favour of development would exist.

11. The proposals also suggest that many more policies will be set at a national level, thereby potentially undermining local interests. Understanding the hierarchy of policy setting and at which tier of government policies can be set will be critical to ensuring residents understand what can and cannot be achieved by the Local Plan.
12. **When responding to the consultation, it will be important to point out that whilst there is some logic in categorising areas of land in such a way, there will be an increased need for considered engagement with residents, businesses and other interested parties in the Borough in determining which category is applied to a particular area.** This is particularly true for any growth areas with the automatic granting of outline planning permission. **The Council will undoubtedly support the requirement for masterplans and design codes to be included in the Local Plans:** Fareham's Local Plans have a long history on this endeavour with indicative masterplans on strategic sites included in Local Plan consultation documents with the objective of steering subsequent planning applications. The link to the automatic granting of planning permission will be welcomed as a means to ensure that masterplanning activities are not undermined by the submission of a planning application at odds with some or all masterplanning principles.
13. The second area of the White Paper that is the subject of several proposals is the matter of Local Plan preparation. Members may welcome the proposal to reduce the length of Local Plans to one third of their current average, and there is also a proposal to utilise a standard template. The process of preparing a Local Plan requires a great deal of technical evidence, some required by legislation and others required by national guidance, but all currently necessary to evidence the strategy presented within the Local Plan. The White Paper includes proposals to abolish 'unnecessary assessment' that cause 'delay and challenge'. Two specific examples are environmental assessments and viability assessments. There is a clear proposal to replace the requirement to produce a Sustainability Appraisal, which considers the sustainability of all reasonable alternatives for the plan, including spatial distribution of housing and sites, with a simplified process for assessing the environmental impact of plans.
14. **The Council's response to proposals to reduce the evidence burden on Local Plans would welcome the overall thrust to streamline the process of plan preparation but in a way that allows the Council to robustly defend the choices it has made, particularly in relation to the scale and location of housing.**
15. The White Paper also contains a proposal to increase the emphasis on consultation on the Local Plan to 'frontload' much of the site-specific consultation and allow for a more streamlined decision making process on specific applications. However, another proposal suggests that Local Plans can be delivered within thirty months, and this timescale would be agreed within the Planning Inspectorate upfront with sanctions on the Council if it did not comply. Currently there are no specific time limits to plan preparation but there is a requirement to review Local Plans every five years. Within the thirty months, the White Paper proposes that the plan can be drafted and consulted upon within eighteen months, leaving the remaining twelve months for the examination and adoption process.
16. When responding to the consultation, **the Council would welcome the intention to reduce the length of time normally taken to produce Local Plans, but challenge the assumption that effective engagement can take place on such important and emotive topics such as housing and environmental protection within only**

eighteen months. While at first glance this may seem a significant amount of time, when considering the additional requirements of Local Plans to include an established set of rules to guide all development and to include masterplans and design codes for strategic sites, this is insufficient time, particularly as it is within this same time period that technical evidence would need to be commissioned and undertaken. There is a risk therefore that proposals would be ill-thought out before being put in the public domain and therefore ill-supported at the point the Local Plan is submitted for examination, increasing the risk of challenge. **In addition, the Council's response needs to highlight the additional costs to Councils associated with the proposals for strengthened, upfront planning in Local Plans.**

17. Turning to the matter of housing need, the White Paper proposes that there will be a new standard methodology for calculating the number of homes to be built in each Local Authority area. The suggestion is that the methodology will be binding, much as it is now unless exceptional circumstances can be argued. Importantly, the consultation suggests that the future application of the standard methodology contained within a separate but almost concurrent consultation, entitled 'Changes to the current planning system', will need to be 'considered in the context of the proposals' set out in the White Paper, in particular the need to adjust for 'land constraints' such as Green Belt. Therefore, the status of the proposed new standard methodology and the procedure for changing from the current standard methodology is made more unclear by the references in the White Paper consultation. **It will be important to emphasise in the Council's response how this uncertainty could affect the preparation of Fareham's new Local Plan, and how, more generally, the need to amend a standard methodology for calculating housing need only introduced in 2018 is providing no greater clarity than the previous process of locally derived need figures.**
18. The consultation document is clearer that the Housing Delivery Test, an annual test by which Councils are tested, and sanctioned, on the completion of new house builds for the previous three years, and the Five Year Housing Land Supply requirement, whereby Councils must be able to demonstrate the location of the next five years' worth of land for housing in order to retain control of planning decisions, will both remain.
19. Another proposal within the consultation document is to remove the Duty to Cooperate. This is currently a legal duty to work with a list of prescribed organisations, including neighbouring authorities, to collaborate on strategic cross-boundary matters. The consultation document suggests that the duty would be replaced by a different mechanism for dealing with such cross-boundary matters and invites suggestions. In responding to the consultation, **the Council will wish to express concern at the proposed abolition of the Duty to Co-operate by highlighting the successful partnership working through the Partnership for South Hampshire, established in 2003 which has been an important vehicle in addressing strategic cross-boundary issues, for example on the Solent Recreation Mitigation Strategy in relation to compliance with the Habitats Regulations. The response would seek clarity on the evidence that Councils would need to provide to support any decision on cross-boundary matters.**

Development Management

20. The White Paper recognises that 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. The consultation document further suggests that the cost of the Council's Development Management activities is to a large extent

covered by planning fees, although the current fee structure means the cost of processing some applications can be significantly greater than their individual fee. It is however recognised that the cost of preparing local plans and enforcement activities is now largely funded from the local planning authority's own resources.

21. The consultation document proposes that 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. **This Council will undoubtedly welcome the Government's objective to ensure planning application fees cover the full costs of processing the applications, but will suggest that an ability to set fees at a local level would support the intention.** There are some types of application (for example listed building consents) where there is currently no fee payable at all which the Government should be invited to consider further.
22. It is some time since this Council undertook detailed benchmarking of the actual cost of processing planning applications. When this exercise was last undertaken it was found that there was a substantial gap between the actual cost of processing planning applications and the planning application fee received. In a number of instances, the cost of processing applications was between 30 and 40% greater than the actual fee received.
23. In addition to this planning application fees are not revised on an annual basis with there often being many years between increases. **The Council's response should encourage any increase to be implemented on an annual basis.**
24. Lastly, a nationally set fixed application fee means that any abnormal planning application costs which arise during determination of planning proposals (for example the requirement for extensive viability work, detailed landscape assessment work) have to be borne by the Council. **The Council's response should suggest that provisions should be made for the Council to recover any abnormal costs, where it results in the cost of processing the planning application exceeding the planning application fee paid.**
25. The White Paper highlights that the planning reforms proposed should identify and eliminate outdated regulations which increase costs for local planning authorities, especially to the decision-making process.
26. One example of this would be the need to publicise certain types of planning and listed building consent applications in a newspaper circulating in the local area. The Council is required by statute to advertise many types of listed building consent application by this means, even though there is no application fee payable for these types of applications. The Council currently spends approximately £7000 a year on press advertisements relating to planning and listed building applications.
27. The Government's proposals are to review and strengthen the existing planning enforcement powers and sanctions available to local planning authorities to ensure that they support the new planning system. The proposals will introduce more powers to address intentional unauthorised development, consider higher fines, and look to ways of supporting more enforcement activities.
28. **The Council would welcome the strengthening of existing enforcement powers and the sanctions available.** One area that will need to be urgently addressed by the Government is the time it takes for the Council to secure compliance when it pursues formal action.

29. With the exception of the most extreme/ harmful breaches, the main tools for addressing breaches are planning enforcement notices and breach of condition notices. Once served there is a period of time before they come into effect- there is a right of appeal on planning enforcement notices and non- compliance with breach of condition notices need to be pursued through the Courts. Both approaches mean that it can take a lengthy period of time to resolve planning breaches through existing formal approaches.

Data and digital technology

30. The White Paper includes aspirations for the planning system to embrace 21st century technologies and puts forward proposals that both decision-taking and plan-making should make greater use of data and digital technology. There should be greater 'digitisation' of the application process especially for smaller applications, and standardised datasets for decisions, and technical supporting information such as highways and flood risk. Local Plans should be more visual, map-based, and based on the latest digital technology and publicly available national datasets.
31. **The response to these proposals would be supportive but recognise that the Council already embraces interactive maps for both planning applications and Local Plans on its website. The response should also reflect the fact that for some people and sections of the community, paper copies of documents will always be valued.**

Planning for beautiful and sustainable places

32. The consultation document includes proposals to make design expectations more visual and predictable by expecting design guidance and codes to be prepared locally with community involvement, and for those codes to be binding on decisions. To support this, the Government proposes a new national body and will encourage Councils to have a chief officer for design and place-making.
33. **These proposals will be welcomed in the Council's response, subject to the precise detail on the expectations for the development of guidance.** For example, to be effective design codes should specify more than broad references to height and materials: they should also consider plot density, spaciousness, streets and spaces, etc. **Whilst a national body could be welcomed, the Council's response will recommend that there is a focus on delivery rather than more design guidance, particularly in light of the National Design Guidance published in October 2019. The response will also highlight the need to avoid confusion between 'beauty' and other critically important elements of good design, such as internal and external space dimensions, landscape and sustainability.**

Planning for infrastructure and connected places

34. The White Paper contains proposals that would significantly change the scope and process of collecting developer contributions. Currently contributions are secured either from the Community Infrastructure Levy (CIL) or via Section 106 agreements. Both of these mechanisms are proposed to be replaced with a new consolidated 'Infrastructure Levy' (IL).
35. The IL would be based on a flat-rate, value-based charge, which is set nationally. A minimum threshold would apply under which it would not be charged. It would be levied at the point of occupation, charged on the final value of a development, based on an

applicable rate at the point planning permission is granted. Local Authorities would be enabled to use funds collected through IL to secure affordable housing, whereas currently affordable housing can only be secured via Section 106 agreements.

36. Replacing the collection of contributions via the two mechanisms of Section 106 and CIL with one levy will mean that the current arrangements where Section 106 is principally used for education and transport costs will need to change, and a proportion of the IL will need to be spent on these infrastructure costs, delivered via Hampshire County Council. The Council's response will make reference to the fact that in many two-tier systems, the two different types of contributions have been used for different functions.
37. Linking to the proposals for greater emphasis on the enforcement of planning standards and conditions, if a new approach to development contributions is implemented, a small proportion of the income is proposed to be earmarked for covering the cost of enforcement activities.
38. **The Council's response will express a concern over the reliance on national rates linked to the point at which planning permission is granted. Significant amounts of time can lapse between the granting of permission and the completion of any development, and value of development can vary significantly even within a Borough, all increasing the risk to the public sector and the delivery of infrastructure on the ground. The response will welcome the move to simplify the existing arrangements but stress the importance of local control on the collection of contributions and the expenditure.** Concerns will be raised on the proposals to collect the contributions at the point of occupation (as opposed to phased from commencement) and the challenges this would raise in relation to providing infrastructure when and where it is needed. This reflects the time taken to plan, procurement and implement the necessary investment in infrastructure and the desire to avoid residents of both new and existing homes being faced with an infrastructure deficit during this time.

Conclusion

39. In summary, the White Paper proposes significant changes to the planning system across plan-making, decision-making, design and enforcement. The changes will require in many cases primary legislation, further consultation and changes to national guidance, and will not be implemented quickly. Therefore, there are unlikely to be implications for Fareham's new Local Plan 2037 or immediate changes to the work of the Development Management service.
40. This report indicates how the Council will respond to the consultation: the deadline for which is 29 October. The following bullet points summarise the key points of the Council's response;
 - Strategic Gaps or Areas of Special Landscape Quality to be considered as such locally defined areas to protect,
 - Stress the increased need for considered engagement with residents, businesses and other interested parties in the Borough in determining which category of growth, renewal or protect is applied to a particular area,
 - Support the requirement for masterplans and design codes to be included in the Local Plans recognising Fareham's long history on this endeavour with indicative

masterplans on strategic sites included in Local Plan, and the link to the automatic granting of planning permission,

- Welcome the overall thrust to streamline the process of plan preparation, but in a way that allows the Council to robustly defend the choices it has made, particularly in relation to the scale and location of housing,
- Welcome the intention to reduce the length of time normally taken to produce Local Plans, but challenge the assumption that effective engagement can take place on such important and emotive topics such as housing and environmental protection within only eighteen months,
- Highlight the additional costs to Councils associated with the proposals for strengthened, upfront planning in Local Plans, including detailed masterplanning,
- Stress how the uncertainty surrounding the introduction of proposed standard methodology could affect the preparation of Fareham's new Local Plan,
- Highlight the successful partnership working through the Partnership for South Hampshire, established in 2003, but seek clarity on how the issue of unmet need will be addressed and the evidence that Councils would need to provide to support any decision on cross-boundary matters,
- Welcome the Government's objective to ensure planning application fees cover the full costs of processing the applications, but suggest that there is an ability to set fees at a local level to support the intention.
- Encourage any increase in planning fees to be implemented on an annual basis,
- Suggest that provisions be made for the Council to recover any abnormal costs, where it results in the cost of processing the planning application exceeding the planning application fee paid,
- Welcome the strengthening of existing enforcement powers and the sanctions available,
- Support proposals to be embrace digital technology but reflect the fact that for some people and sections of the community, paper copies of documents will always be valued.
- Welcome the increased focus on good design, subject to the precise detail on the expectations for the development of guidance.
- Welcome the establishment of a new national body for design but recommend a strong focus on delivery.
- Highlight the need to avoid confusion between 'beauty' and other critically important elements of good design, such as internal and external space, landscape and sustainability.
- **Express a concern over the reliance on national rates linked to the point at which planning permission is granted** Welcome the move to simplify the existing arrangements for the collection of developer contributions but stress the importance of local control on the collection of contributions and the expenditure.

Enquiries:

For further information on this report please contact Gayle Wootton (Ext 4328) or Lee Smith (ext. 4427).