

Bath & North East Somerset Council	
MEETING	Council
MEETING DATE:	10th September 2020
TITLE:	Planning Reform consultations
WARD:	All
AN OPEN PUBLIC ITEM	
List of attachments to this report:	
None	

1 THE ISSUE

- 1.1 The Government issued two consultation papers in August, one on [Changes to the current planning system](#) (consultation deadline 1st October 2020) which would have a more immediate impact and the other, a white paper on a more fundamental reform to the Planning system entitled [Planning for the Future](#) (Consultation deadline 29 October 2020). The Government has indicated that it will seek to introduce the changes to the current system before the end of 2020.
- 1.2 The Government has also made significant changes to the Use Classes order (UCO) which came into effect on 1st September 2020 that have implications for some of the operation of the Council's existing planning policies.
- 1.3 The changes arising from the white paper would change the role of Local Authorities in the planning process and this report sets out a draft response.

2 RECOMMENDATION

- 2.1 The Council is asked to;
 - a) Agree the responses to the consultations set out in section 3 of this report and delegate authority to the Director of Development and Public Protections to formulate and submit more detailed responses, in liaison with the Cabinet Member for Planning, Housing and Economic Development and in consultation with Group Leaders, and
 - b) Note the changes to Planning system which came into force on 1st September 2020.

3 THE REPORT

Changes to the current planning system

3.1 The more immediate changes to the current planning system cover 4 areas;

- The calculation of a District's Housing need
- The "First Homes" policy
- Site size thresholds for seeking Affordable Housing; and
- The approach to 'Permission in Principle'

Calculation of Housing Need

3.2 The calculation of a District's Housing Need is undertaken via the national Standard Methodology. In B&NES, this entails an annual housing need of around 650 homes or 13,000 over 20 years. The revised methodology would nearly double the assessment of housing need in B&NES to around 24,000. The current calculation has a cap which will be removed in the new approach and no account will be taken of local context or deliverability. If the new methodology is introduced, B&NES will no longer have a 5 year housing land supply, despite its very successful delivery record. This is likely to result in increased pressure from predatory planning applications, increased appeals and loss of control over decisions on the location and nature of housing which work contrary to Council's objectives especially the Climate and Nature Emergency. The system inadvertently penalises Local Authorities like B&NES which have worked hard to increase supply.

3.3 **Response:** Object to the introduction of the new Standard Methodology without account being taken of a Local Authority's capacity to deliver, local context and past delivery record.

Affordable Housing and First Homes

3.4 The Government is seeking to prioritise its First Homes approach ('lower cost' home ownership) in the delivery of Affordable Housing. It is also proposing to raise the site size threshold of sites which need to contribute affordable housing from 10 dwellings to 40 or even 50 dwellings. The stated objective is to ease the burden on small and medium sized developers.

3.5 **Response:** These changes would significantly undermine the Council's ability to secure affordable housing and especially for social rent which are primarily delivered through the planning system. Most of the need in B&NES is for social rented homes which would be further impacted by the First Homes approach. The First Homes proposal is less affordable than the existing Affordable Home Ownership product.

Permission in Principle

3.6 Developers already have the option to secure planning permission via the permission in principle route, although this is not commonly used by developers and it has not been used at all in B&NES. The Government is seeking to increase the size of sites/schemes to which this applies.

3.7 **Response:** No comment

The Planning White Paper "Planning for the Future".

3.8 Some of the key changes in the White Paper are highlighted below with a proposed high-level response.

A zonal approach

- 3.9 The White paper proposes that Local Plans should be simplified and identifies three types of land – Growth areas suitable for substantial development, Renewal areas suitable for development, and areas that are Protected. Areas identified as Growth Areas (suitable for substantial development) would automatically grant outline planning permission. Renewal Areas would entail automatic permission for “pre-specified forms of development”, and Protected Areas would have a regime not dissimilar to the existing discretionary system.
- 3.10 **Response:** The Council agrees that current plan-making can be unduly onerous as a consequence of the regulations placed upon it causing unnecessary cost burden on local authorities and other participants in the process. The simplification of the examination process, when applied alongside outline planning permission for growth areas, must avoid the risk of unsuitable and unsustainable growth being permitted. The removal of one process of scrutiny alongside the reduction of another could potentially represent an over-simplification of the processes that provide insurance against poorly planned and poorly located development. It is important that development in renewal and regeneration areas supports Climate and Nature Emergency objectives.
- 3.11 The role and process for Green Belt review needs clarification. It is not clear how the Green Belt will be assessed, changed or enhanced and how it will influence the calculation of the housing requirement, particularly where other constraints exist such as flood zones, ecological sites and AONBs.

Development Management policies to be established at national scale

- 3.12 Development Management policies are to be established at national scale and not set by Local Authorities in their Local Plans which will focus instead more on sites and design.
- 3.13 **Response:** Whilst there are efficiencies in a more streamlined approach to Development Management, and repetition of similar policies across Local Plans can be avoided, the ability for LPAs to reflect local circumstances and priorities through their local plans will be lost. A nationally defined set of Development Management policies will need to be high level to cover the range of development settings across England. There is a risk this will lead to an interpretive and in the long run, legally burdensome system, as policies will ultimately be tested through case law. It is not clear how far they will prioritise issues such as the Climate and Nature Emergency

Determining Planning Applications

- 3.14 Decision making should be made more efficient by digitalising further the application process, using shorter more standardised applications, nationally standardised data requirements, clear and consistent planning conditions and greater delegation of planning decisions to planning officers where the principle of development has been established.
- 3.15 **Response:** Whilst upgrading the digital tools available and standardisation of data platforms might allow increased transparency the reduced role of the Planning Committees might give the public perception of less accountability

Statutory timetable for Plan-making

- 3.16 Local authorities and the Planning Inspectorate will be required to meet a statutory timetable for key stages of the process, with potential sanctions imposed for those

who fail to do so. This should halve the plan-making timetable to around 2.5 years to adoption with a Statutory duty for LPAs to adopt Local Plans by a specified date.

3.17 Response: This approach will offer more certainty to bring forward development. However, in meeting this ambitious timescale, the following points need further detail or clarification:

- a) Clarification of the transitional arrangements, particularly where Mayoral Spatial Development Strategies will come forward in advance of local plans.
- b) How delays to plan-making outside of the control of local authorities will be addressed, for example through the examination process, particularly if plans across England are likely to come forward to similar timescales.
- c) How the reskilling and the development of professionals across the planning sector will be resourced in order to support a changed focus of the planning process to 'front loading' at the plan-making stage, including the provision of local design guides and codes. This issue should not be underestimated, particularly as with a reduced Development Management role, 'getting it right' at the plan-making stage is increasingly important and therefore a robust process must be in place.

Neighbourhood Plans

3.18 Neighbourhood Planning will be retained and continue to be supported.

3.19 Response: This is supported as it is a valuable means of community input. However, there is an issue around coverage of Neighbourhood Plans not being even, with particular gaps in urban communities. Sufficient central government resource will need to be provided to maintain this work and encourage greater coverage.

Good Design

3.20 The new zonal approach will be accompanied by a stronger emphasis on design guidance and codes to be prepared locally with community involvement and ensure that codes are more binding on decisions about development. A new body will be established to oversee creation of local design codes, and each local authority will be expected to employ a chief officer for design and place-making to oversee quality. Local design codes must have community input to be valid. The government has also promised the imminent publication of a National Model Design Code "setting out more detailed parameters for development in different types of location: issues such as the arrangement and proportions of streets and urban blocks, positioning and hierarchy of public spaces, successful parking arrangements, placement of street trees, and high quality cycling and walking provision".

3.21 Response: The focus on development quality is welcomed, provided this includes responding to the Climate and Nature Emergencies. As mentioned above, ensuring the right skills and resource to bring forward the proposals, particularly to encourage coverage at the appropriate scale will be a challenge. Model codes and guides are a useful starting point but must allow flexibility for local character and identity to be reflected in new development. Some of the proposals (without further detail available) appear to run counter to the aspiration to move away from repetitive housing design. For example, permitted development for pattern book designs – local authorities should have a role in determining which pattern books are appropriate for their context or developing their own pattern books.

Heritage

- 3.22 The White paper continues to emphasize the need to conserve and enhance our historic buildings and areas. Local Plans will clearly identify the location of internationally, nationally and locally designated heritage assets, such as World Heritage Sites and conservation areas, as well locally important features such as protected views. Government will review and update the planning framework for listed buildings and conservation areas, to ensure their significance is conserved while allowing, where appropriate, sympathetic changes to support their continued use and address climate change.

Energy efficiency standards for buildings

- 3.23 The White Paper states that the Government will facilitate improvements in the energy efficiency standards for buildings to help deliver its commitment to net-zero by 2050.
- 3.24 **Response:** It's not clear how this would affect the ability of Local Authorities to respond to their own Climate Emergency and define local energy efficiency standards. The proposal to commence the amendment to the Planning and Energy Act 2008 to restrict local planning authorities from setting higher energy efficiency standards for dwellings could be counter to the local authorities Climate Emergency target of carbon neutrality by 2030 and the national 2050 carbon neutrality target. The proposal to remove the Fabric Energy Efficiency standard (FEES) from Building Regulations may also lead to lower building fabrications standards which would not be welcomed.

Community Infrastructure Levy (CIL)

- 3.25 The Community Infrastructure Levy will be reformed to be charged as a fixed proportion of the development value above a specified threshold, with a mandatory nationally-set rate or rates and the current system of planning obligations abolished. A minimum size threshold for charging will be introduced.
- 3.26 **Response:** There are a number of detailed CIL issues in the white paper which will require further analysis. However, in high value areas like B&NES, a high level of income from CIL has been generated, and a more standardised approach is likely to reduce the income and hence the funding for infrastructure in the District. This will be further affected by the abolition of s.106 contributions which tend to bring in more income than CIL and can be tailored to specific circumstances and help residents to see the how the direct impacts of developments have been addressed.
- 3.27 Whilst the current system would benefit from improvement, abolishing S106 has significant implications for Affordable Housing delivery unless its replacement is fit for purpose. The narrative in the consultation is that the reformed approach will continue to deliver on-site Affordable Housing at least at current levels, but the level of detail is not available to demonstrate that this is deliverable in practice. Whilst the national position is just under 50% of Affordable Housing is delivered under S106, this is by the most significant generator of Affordable Housing in B&NES. The Levy approach is likely to benefit the poorly performing Local Authorities and dis-benefit high performers.

Planning enforcement

- 3.28 The White Paper states that enforcement powers and sanctions will be strengthened to enable local authorities to ensure they support the new planning system. This includes introducing more powers to address intentional unauthorised development and higher fines.

3.29 This also includes implementing national commitments on the Government's response to the consultation on unauthorised development and encampments, to strengthen national planning policy against intentional unauthorised development and ensure temporary stop notices are more effective.

3.30 **Response:** Stronger enforcement powers are welcomed

Changes to the Use Classes order

3.31 The Government has also changed the Use Classes order which governs when planning permission is needed for a change in land-use. These changes took place on the first of September and in particular they seek to provide more flexibility for changes between commercial type uses. Hence the greatest impact will be on city and town centres. Some of these changes will render adopted planning policies redundant and a schedule is being prepared for publication of the implications for the Council's adopted Local Plan policies. The changes will also have other knock on impacts, and the ability to control parking related to particular uses will be lost. Increased Permitted Development rights, such as retail units to residential, inhibits the Council's control over the quality and standard of new development.

4 STATUTORY CONSIDERATIONS

4.1 The Government expects that the changes to the current planning system can be implemented fairly quickly, once agreed, before the end of the year, whereas the changes in the Planning White Paper will need legislative change

5 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

5.1 The changes are likely to affect the level of income from CIL and S.106 contributions generated in the District. CIL has made a significant contribution to the Council's Capital Programme and B&NES should object to this being undermined.

5.2 There will also be a requirement to ensure that the council's professional staff in key Services that work in the development and land use sectors are appropriately trained and skilled to operate the new planning system. In light of current resource constraints, the Council should make it clear in response to the consultation that additional demand on officer time or systems would need to be recovered from planning income / fee levels and any new pressures that cannot be funded from income will need to be recognised and funded by Government.

5.3 The Government will also need to continue to financially support Neighbourhood Planning

6 RISK MANAGEMENT

6.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision-making risk management guidance.

7 EQUALITIES

7.1 If Affordable Housing provision is reduced, this is highly likely to impact negatively on women, people with a disability and people from BAME communities, all of whom are over-represented in needing Affordable Housing. The further

digitalisation of the plan-making and planning application processes will need to take account of the needs of all sectors of the community.

8 CLIMATE CHANGE

8.1 The new proposals could impact the Council's ability to deliver its Climate and Nature Emergency objectives. In particular, the nationally prepared set of Development Management policies may not offer the flexibility to allow individual Local Authorities to meet objectives such as those on the Climate and Nature Emergency ambitions. The substantial boost in housing arising from the new standard methodology might create tension with the Climate and the Nature Emergency objectives in the longer term, and may cause more acute problems in the short term as a result of the lack of a 5 year housing land supply and associated predatory planning applications. The new compulsory energy efficiency standards for buildings and model national Design Codes may help meet the national net zero target of 2050 but may not be demanding enough for more ambitious local authorities such as B&NES.

9 OTHER OPTIONS CONSIDERED

9.1 The Council is not obliged to respond to the consultations.

10 CONSULTATION

10.1 The likely impacts of the changes proposed in the consultations will be further considered in more detail by the relevant council departments before a more detailed response is submitted in response to the consultation.

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Background papers	Changes to the current planning system consultation Paper Planning for the Future White Paper
Please contact the report author if you need to access this report in an alternative format	