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**29 OCTOBER 2020**

**WHITE PAPER CONSULTATION: PLANNING FOR THE FUTURE**

1. Summary

1.1 The Government launched a White Paper with proposals for restructuring the planning system, called “Planning for the Future”. This report considers the Council’s formal consultation response, and some likely key implications.

2. RECOMMENDATION:

2.1 That the responses to the questions, set out in Appendix B to the report, form the Council’s response to the Government’s Consultation on the White Paper: Planning for the Future.

3. Background

3.1 The Government have produced substantial proposals for restructuring the planning system in “Planning for the Future”. It forms Appendix A to this report. Launched 6 August 2020, and labelled a White Paper, the consultation closes today (29 October).

3.2 As reported to the last Cabinet on 24 September, Government also launched on the same day a separate consultation on “Changes to the current planning system”. Whilst these changes were considered to be largely ‘technical’, their impact on the Council as well as on other authorities was viewed likely to be immediate and direct, resulting in potentially very significant housing pressures on the Council.

3.3 In contrast, the White Paper moots possible structural changes of the planning system over a longer timeframe. Primary legislation would need to be approved, then further rules and guidance formulated. Government officials have unofficially talked of the new ideas as “more of a vision” than firm proposals. It should be noted that ‘alternative options’ are included, but these tend to be variations on the status quo, rather than alternative versions of the main changes proposed. There therefore remains uncertainty and limited detail on the implementation of changes outlined.

3.4 The Paper includes 24 “proposals” organised around three themes (“pillars”). The Government summarises its proposals at paragraph 1.15 to 1.20 of the Paper. The White Paper sets out the Government’s current perception of the planning system, including:

- *Process*: too complex and outdated.
- *Outcomes*: slow, and delivering too few new houses.

3.5 Overall, there is a recurrent emphasis on national simplification/ modernisation of the system through technology, and seeking to achieve predictability and speedier decision-making for developers. It is apparent from the Prime Minister’s Foreword that the speeding up of housebuilding is a primary driver of the proposals.

4. Discussion of Proposals

4.1 The current planning system is ‘discretionary’ one with individual decision making on a site-specific basis, with the statutory Local Plan as a starting point, rather than having locally predetermined land uses and requirements for each site, providing more certainty for developers.. Proposals to amend this grabbed initial headlines (however there are multiple

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different proposals in the White Paper), focusing on attempts to seek greater predictability and standardisation in the content of Local Plans.

- 4.2 Plans would be required to place all land in one of the three categories for future land use. **Pillar 1** of the Paper includes proposals for:
- *Growth Areas* in Local Plans would allow substantial development: large new redevelopment sites (etc) receive outline consent at the time the Plan is approved.
  - *Renewal Areas* in Local Plans support smaller-scale development in built up areas, (for instance urban infill or small sites in or on the edge of villages) by providing in principle support for development delivering specified uses.
  - *Protected Areas* including Green Belt land would require planning applications as now. Some areas would be defined nationally, others locally.

This classification impacts on how new development can get consent, giving developers options, with implications for development management processes. Adding to the uncertainty, potential 'sub-areas' may occur.

- 4.3 The development management process is intended to be a more streamlined end-to-end process with firm deadlines for determination with built-in incentives for prompt determination of applications by local planning authorities such as deemed approval of some applications or return of fees. It also envisages that there will be increased delegation of detailed planning decisions to planning officers where the principle of development has been established. It is likely to lead to less involvement by the Development Control Board at the planning application stage but potential for Members to be more involved at the earlier policy-making stage where parameters are set for development.
- 4.4 Applicants will be entitled to an automatic rebate of their planning application fee if they are successful at appeal. There is interest in exploring if some types of applications should be deemed to have been granted planning permission where a local authority does not determine an application within the set time limits.
- 4.5 The White Paper is hopeful that new and future technology can be widely rolled out to improve efficiency and streamlining, and the presentation of planning proposals. Proposals include:
- reducing information requirements and ensuring all documents are machine-readable;
  - digital templates, greater standardisation for supporting information, planning conditions and technical requirements.
- 4.6 It is envisaged that the proposed changes will free up qualified planners to focus on what they are trained for rather than being reactive. The Government intends to strengthen the powers for local planning authorities to enforce against breach of planning control and provide incentives for enforcement action to be taken.
- 4.7 The Paper proposes improvements will be enabled by technology also allowing better consultation methods and map-based Local Plans (plus more visually engaging 'design codes'). A series of simplifications are proposed to the production of Local Plans:
- Local Plans will be shorter if more visual and focused on the three area classifications and development management policies only to be set out in national policy (and with a model template proposed).
  - Local Plans should be digitised, accessible to all, and based on data rather than documents.
  - The evidence required to justify Local Plans, and the tests on which they are assessed, will be simplified. Similarly the legal Duty to Cooperate test is proposed to be dropped. Little detail is presented on the new arrangements in these welcome respects.

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- Local Plans will have to be produced within 30 months. This is proposed to be achieved by restricting the stages at which the public can input to:
  - first stage suggestions to the council
  - the final proposed Plan: objections can be made to the Inspector.

Some streamlining could significantly improve Local Plans. However efforts before to shorten Local Plan production timescales have failed. Public participation has not worked effectively when front loaded at the issues or ideas phase (when there are no clear policies for public comment) or the publication stage (which is dealt with by a Planning Inspector more influenced by national policy and articulate developers than residents).

- 4.8 Even if Government choose to set public participation points aside, and succeed in undertaking rationalisation of Plan evidence/ assessment processes, the pressure on Local Plan delivery may well increase from other elements proposed. Significant preparatory work including communication with service providers and landowners (and consequent drafting iterations) are needed to ensure infrastructure and development proposals are sustainable and achievable. This occurs on both the individual site level and cumulatively Borough-wide. This need will be increased, not diminished, with proposals to move the consideration of all these issues for big sites more to the Plan-making stage of the process e.g. front loaded at 'Growth Areas' to take risk away from developers.
- 4.9 Members will be aware the Government is pursuing an agenda of changing the planning system in order to increase housebuilding towards the level it views as necessary nationally. As considered by at the last Cabinet meeting, a new formula has been put forward to increase local housing targets for consideration in Local Plans. However under the White Paper that would only form an interim approach as longer term, the Government is looking to directly stipulate a binding level for local house building. Under the White Paper, it is proposed to explore a national method accounting for both needs and constraints, removing local consideration of Borough constraints out of Local Plans. In theory this centralisation would simplify Local Plan production, but consideration of all applicable local factors by national Government is in reality an extremely challenging ambition.
- 4.10 Under **Pillar 2** "Planning for Beautiful and Sustainable Places" the Government seeks to raise design quality, with expectations set out in a more visual and predictable form. The Government seek a "*fastrack for beauty through changes to national policy and legislation, to incentivise and accelerate high quality development which reflects local character and preferences*". Design is one aspect of the system where the Government are looking to create greater opportunities for public input.
- 4.11 The Government proposes the increased use of nationally set permitted development rights and, elsewhere, design codes for development. (A design code is a set of written and graphic rules that establish principles aimed at delivering better quality places, for example the relationships between street, block, massing, and landscaping requirements, and so forth; without prescribing the overall outcome.) National policy will make it clear that schemes complying with local design codes will have a positive advantage and greater certainty of swift approval. It is moreover anticipated that many applications which meet design code parameters or permitted development right standards can be dealt with by digitisation programmes as there is no requirement for consideration by a professional planner.
- 4.12 National publications such as the National Design Guide, National Model Design Code and the revised Manual for Streets will also have direct bearing on development design. However the Government is still committed to widening Permitted Development rights, which can happen without any application process required. This freedom is likely to mean little consideration is given to design quality in most instances where the rights are exercised.

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- 4.13 Proposals under **Pillar 3** (the infrastructure theme) could have significant implications for developer contributions with the clear concept of unified levy on development – hopefully generating more revenue - however uncertainty remains as to final proposals and their ultimate outcome. The abandonment of site specific Section 106 legal agreement in favour of an infrastructure levy based on sales values (not floorspace) is a major shift. Affordable housing would also now be funded through the same mechanism as funds for infrastructure provision, with it all going into the same broad spending ‘pot’. It is unclear how the full range of purposes that Section 106 serves (including non-financial commitments) would be replaced in making specific developments acceptable and sustainable.
- 4.14 More types of development are likely to contribute with this levy than under CIL, but revenue generation will depend on how the levy rate is set, and exemptions such as the threshold at which low value developments qualify to pay. Changes are also proposed to push back when developers pay. There appears to be a new emphasis on flexibility for local authorities, including spending revenues on legitimate items other than infrastructure and affordable housing, for example Council Tax reduction. As with CIL, the final detailed provisions will influence how workable it proves; and substantial further consideration and testing would be required.
- 4.15 The Government acknowledge overall there would be an impact of all the changes on resourcing and skills; and accept suggest new burdens funding would be available for a time. The White Paper hopes its proposals will allow some ‘freeing up’ of planners and development of new skills. Landowners and developers are however seen as principal funders of the system in future, through fees, and also potentially setting aside (part of) development contributions; however there is again a lack of clarity over this important issue.
- 4.16 A new body is proposed to provide expertise that local authorities can draw upon. Nevertheless, it is clear a step change in available design skills will be necessitated. Additional resource would also be required to implement the digital agenda that forms part of many proposals. Resourcing enhancement of digital and geospatial capabilities is likely to be a significant challenge.
- 4.17 The key expected pros and cons of the five most fundamental restructuring proposals for the Council’s planning decisions and infrastructure planning, can be summarised as below:

	Pros	Cons
<b>Extended digitisation</b>	<ul style="list-style-type: none"> <li>• Enhanced visualisation of proposals</li> <li>• Procedural efficiency</li> <li>• Consistency between local authorities.</li> <li>• Potential enhanced engagement with some groups.</li> </ul>	<ul style="list-style-type: none"> <li>• Highly resource intensive</li> <li>• New skills required</li> <li>• May alienate some groups.</li> </ul>
<b>A ‘binding’ new housing requirement for local authorities, centrally factoring in land constraints.</b>	<ul style="list-style-type: none"> <li>• Simplifies Local Plan preparation</li> <li>• Consistency between Local Plans</li> </ul>	<ul style="list-style-type: none"> <li>• Reduces role and strategic significance of Local Plans</li> <li>• Insensitive to local issues</li> <li>• Central target driven, not bottom up.</li> <li>• Highly challenging to produce a workable approach considering a</li> </ul>

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		sufficient breadth of constraints e.g. infrastructure capacity.
<b>Interactive map-based Local Plans, streamlined with the requirement to produce within 30-months, identifying Growth, Renewal and Protected land (zones)</b>	<ul style="list-style-type: none"> <li>• Greater predictability and clarity with clearer 'zoning'</li> <li>• Improved public interest.</li> <li>• Simplifying complex processes</li> </ul>	<ul style="list-style-type: none"> <li>• Removal of the most significant stage of public consultation</li> <li>• Reduced scope, and possibly influence, for Local Plans</li> <li>• Simplistic representation of complex local environments required if streamlining to occur.</li> <li>• Technology intensive</li> <li>• Front-loading of outline application work transfers cost/ risk and staff resource burden from private sector to Council</li> </ul>
<b>Local design codes and guides to be prepared with community involvement by Local Planning Authorities</b>	<ul style="list-style-type: none"> <li>• Stronger design focus</li> <li>• Opportunity for public input</li> </ul>	<ul style="list-style-type: none"> <li>• Centralised requirements may reduce effectiveness</li> <li>• New professional skills need to be secured</li> <li>• Pattern books/ design codes, unless their production is well resourced, may result in undifferentiated development</li> </ul>
<b>A new fixed rate Infrastructure Levy to replace Section106s and Community Infrastructure Levy, based on the final value of development</b>	<ul style="list-style-type: none"> <li>• Commitment to aim for increased infrastructure funding, with a broader funding base.</li> <li>• More transparency/ predictability.</li> </ul>	<ul style="list-style-type: none"> <li>• Non-financial issues still sometimes need legal control mechanisms</li> <li>• Expectation for greater local authority delivery and forward funding, with later payment by developer shifting risk away from them.</li> </ul>

5. Implications and Conclusions

5.1 The consultation proposals can be seen as one of the most significant sets of proposals for the English planning system in decades. It amounts to a serious attempt to grapple with significant challenges facing the planning system, adding to the extended series of shorter-term planning changes. It is clear the Government's proposals will not provide any 'quick wins'. The ideas do not form a full programme of revisions that may be expected with a White Paper; instead there remains many practical issues still to be designed and tested to achieve the framework outlined.

5.2 It should be highlighted that whilst major changes are outlined, councils and developers will continue working within a framework that has aspects of continuity, for example:

- The Local Plan-led legal basis for decision taking remains and is supported by Government.
- Central Government and national policy retains an influential role, especially with further weakening of cross boundary (regional) considerations.
- There are **no proposals** for-
  - National Green Belt policy changes, or revising the overall level of land designated as Green Belt.
  - Reviewing country-wide the balance of development with the aim of 'levelling up' (or other ways to relieve pressure on the South East).

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5.3 It is acknowledged in our response there is scope for simplification of planning requirements. However key concerns include:

- *Reduced local political and public input to planning decisions.* Less of an emphasis on local discretionary planning means there will be fewer full applications to the council, and less of these will be decided by Members. The Government view that predictability and efficiency of land use and growth decisions will be improved by shifting the overall focus, and public consultation, away from individual planning applications reviewed by elected Councillors. Resident and local input is directed instead to the Local Plan, and design codes. However in forming local policy, key details will not be available to the public until the Plan is about to be handed to the Planning Inspectorate to determine. Particularly if speeding up Local Plans reduces the ability of the public to influence policy drafting at a formative stage, it is unlikely better use of public participation techniques and technology will fully mitigate the loss of local accountability in the planning system.
- *Increased house-building through centralising targets.* The longer-term idea in the Paper to fully centralise local planning authority house building levels and produce a binding requirement (with constraints considered nationally not locally) is not only contentious but highly ambitious. More residential development can be expected in/ at cities and towns, through pro-growth measures and higher housing targets. Development is envisaged to be accommodated through densification, not Green Belt release; but in order to main quality the planning system must be allowed to continue to closely assess urban development proposals.
- *Overall impact on quality is unclear.* At present it is hard to be confident a widespread uplift in the substance of design quality and sustainable developments will result. The Government has not set out that the new framework will support refusals of poorly designed development (despite reliance on greater urban densification). Similarly, no dramatic change is expected in the shorter term on environmentally friendly construction, as the Government have deferred acting on previous proposals and commitments.
- *Outcome of infrastructure and affordable housing funding shifts are not fully certain.* The Paper promises that, in introducing a single Infrastructure Levy for developer contributions, overall revenues to support local infrastructure and on-site affordable housing delivery levels, will be maintained or increased. This could lead to greater infrastructure provision to support more development, however details are lacking and it is far from certain the final arrangements will increase infrastructure funding in Dartford. There is no new mechanism or organisation in the proposals to secure timely delivery of infrastructure. Effectively, Council delivery and administrative burdens may grow under a new comprehensive Infrastructure Levy, as will infrastructure delivery expectations.
- *Resources requirements will increase substantially.* Good urban design and experienced officers are vital to successful denser urban development. Professionals will need to be able to analyse and effectively communicate development design options in writing and in discussion with the public and with specialists employed by developers Full use of new technology is expected to deliver better quality public participation (in the Local Plan/ design codes) and to realise savings from simplification of processes: in particular much better quality visual platforms are expected to show design options and for the Local Plan to become a fully-map based facility. Public consultation will necessitate highly interactive functionality i.e. new software (and possibly hardware) and new skills to operate technology effectively for public benefit.

5.4 The proposed response raises these concerns and suggests the aspects of the system that could readily be simplified and improved without the disruption of further major planning change.

## 6 Relationship to the Corporate Plan

6.1 The Council's Corporate Plan includes a number of relevant strategic aims:

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- To ensure that regeneration in Dartford is sustainable and of benefit to all of our communities
- To facilitate quality, choice and diversity in the housing market, assist in meeting housing need in Dartford and deliver high quality services to service users
- To create strong and self-reliant communities

7 Financial, legal, staffing and other implications and risk assessments

Financial Implications	No implications of responding.
Legal Implications	No implications of responding.
Staffing Implications	No implications of responding.
Administrative Implications	No implications of responding.
Risk Assessment	No implications of responding.

8. Details of Exempt Information Category

Not applicable

9. Appendices

Appendix A - Planning for the Future White Paper August 2020

Appendix B - Formal Response to the 'Planning for the Future' Consultation

BACKGROUND PAPERS

<u>Documents consulted</u>	<u>Date / File Ref</u>	<u>Report Author</u>	<u>Section and Directorate</u>	<u>Exempt Information Category</u>
	-	Mark Aplin Planning Policy Manager Regeneration 01322 343202	Planning &	N/A