

# **East Herts Council Non-Key Decision Report**

**Date: 09/10/2020**

**Report by: Councillor Linda Haysey – Leader of the Council and  
Councillor Jan Goodeve – Executive Member for Planning and Growth**

**Report title: East Herts Council's response to the Planning White Paper**

**Ward(s) affected: All**

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## **Summary**

The report proposes East Herts Council's response to the Government's 'Planning for the Future' White Paper consultation.

## **RECOMMENDATIONS FOR DECISION: That:**

**The Government be informed that East Herts Council (the Council):**

- (a) Submits the responses to the Planning White Paper consultation questions included at Appendix A to this report as its detailed response to the Planning White Paper.**

## **1.0 Proposal(s)**

- 1.1 The purpose of this report is to advise Members of the implications of the Planning White Paper for East Herts and to agree this Council's response to the consultation.

## **2.0 Background**

- 2.1 On 6<sup>th</sup> August 2020 the Government (the Ministry of Housing, Communities and Local Government) published a White Paper titled 'Planning for the Future' proposing significant reforms to the planning system in England. The current system is criticised as ineffective and over-complex and identified as the main barrier to housing delivery. The White Paper aims to

speed up and modernise the planning system. It proposes far-reaching reforms that will have large implications for the planning functions of this Council, including for both the development of a new Local Plan and the way planning applications will be determined in future.

- 2.2 The consultation runs for 12 weeks from the 6 August – 29 October 2020 and invites responses to a series of questions posed within the document. This Council's response to these questions is set out in **Appendix A** to this report.
- 2.3 Members should note that whilst the nature of many of these proposed changes are fundamental, the document focuses on ideas rather than details, so it is difficult to be certain of the full implications. The potential implications outlined in the document are therefore based on the officers' interpretation of the information provided.
- 2.4 It should be noted that to bring about many of the changes the Government are proposing there will need to be new primary and secondary legislation passed.

### **3.0 Reason(s)**

#### ***Summary of White Paper Proposals***

- 3.1 The proposed reforms to the planning system in the White Paper are underpinned by the aim to simplify and speed up the planning process. The emphasis is on outcomes – housing delivery and good design- with discretionary decisions (case by case) replaced by a rule-based system to create more certainty for developers and local communities. The current system is blamed almost in entirety for the failure to deliver enough housing, despite local planning authorities across the country approving the overwhelming majority of applications. There is little recognition in the White Paper that it is often wider economics that delay development coming forward, not the planning system.
- 3.2 There is focus on modernising planning and using technology to create faster and more accessible plan-making and decision-making. It is argued that this will be more democratic

and easier for residents to engage with and understand.

- 3.3 The proposals for change are set out under three 'pillars'. These changes address a range of topics outlined below.

***Pillar 1: Planning for development***

- 3.4 The primary objective of these proposals is to streamline the plan making process to speed up, standardise and digitalise local plan production and decision-making. This aims to create more certainty with rule-based policies and design codes. Specific proposals include:

- Zoning of land into three categories: growth, renewal or protected. Land allocated in **growth** zones will be suitable for 'substantial' development and granted permission in principle on adoption of the Local Plan, with detailed consent secured via reserved matters. **Renewal** areas will consist of sites within urban areas or villages and brownfield sites. These areas will have a presumption in favour of sustainable development and be suitable for some development based on specific criteria. Development in **protected** zones will be restricted and subject to the current planning application process.
- Development Management (DM) policies will be set nationally in the NPPF, with only area specific DM policies in Local Plans
- Local Plans will be digital: shorter, interactive and map-base. More accessible to the community so should be more engagement.
- Introduction of a statutory 30-month timeframe for local plan production, with sanctions for delay. Local planning authorities only have 18 months to develop a plan before it is submitted to the secretary of state.
- Decision-making frontloaded into the plan-making stage, both in terms of permission in principle and the focus on producing design codes within or alongside the Local Plan.
- Development Management will be digitalised, decision-making timescales mandatory and some processes and

information standardised. More emphasis on data so that some applications can be machine-readable. Less emphasis on engagement at this stage.

- Retain neighbourhood planning but with more emphasis on creating digital plans and developing local design codes.
- A nationally set target of 300,000 homes per annum, with 'binding' housing targets for local authorities, which take account of land constraints, such as Green Belt and environmental and conservation designations.
- A single statutory 'sustainable development' test will replace the existing tests of soundness.
- Abolition of the Duty to Cooperate and 5 year housing supply. Retention of housing delivery test.

### ***Pillar 2: Planning for beautiful and sustainable places***

3.5 The White Paper has a strong focus on design and ensuring that design issues are considered in more detail earlier in the planning process. Proposals include the following:

- New National Model Design Code and a revised Manual for Streets.
- Local design codes and guides prepared by local planning authorities, neighbourhood planning bodies or applicants. Will only have weight if developed with community involvement.
- Creation of a new national expert design body.
- The introduction of a 'fast track process for beauty' to accelerate the approval process. In Growth areas individual site masterplans and codes will be drawn up at the local plan stage and proposals that comply will be 'fast-tracked'. In renewal areas 'pattern books' should be revived by allowing pre-approval of popular and replica designs through permitted development.
- Local authorities should have a chief officer for design and place-making

- Simpler process for assessing environmental impact. A consultation about changes to sustainability appraisal and environmental impacts assess to follow.

### ***Pillar 3: Planning for infrastructure and connected places***

3.6 Section 106 agreements and CIL will be abolished and replaced by a new levy calculated as a fixed proportion of the value of developments, above a set threshold. Key proposals include:

- Local Authorities to have increased flexibility on how the levy is spent.
- Levy to be paid at occupation and local authorities will be able to borrow against the levy to deliver up front infrastructure.
- Levy extended to capture change of use via permitted development.
- Levy should retain delivery of affordable housing to at least current levels, including on-site delivery.

### ***Delivering Change***

3.7 To deliver these radical changes, the Government recognises the need for additional funding and skills. They have committed to a comprehensive resources and skills strategy for the planning sector. There is also an intention to review and strengthen enforcement powers and sanctions.

### ***Implications for the Council***

#### ***Resources and funding***

3.8 The proposed reforms will need significant resources to deliver. The frontloading of information and decisions, such as permission in principle and the creation of design codes/ masterplans into the local plan stage will require an increase in funding and skills to achieve, particularly if the unrealistic 30 month timetable for local plan production is taken forward. The White Paper significantly oversimplifies the allocation and site selection process in local plans. It is also unclear how much involvement local planning authorities will need to have in determining 'constraints' to their nationally imposed

housing target. Given the amount of Green Belt in East Herts it seems unlikely it will all be assessed as a constraint, but will local planning authorities be required to undertake reviews of the Green Belt to inform decisions? The oversimplification and lack of detail means resource implications in Green Belt local authorities could be even higher, and the proposed timetable even more unrealistic.

- 3.9 The transition period will have particular resource implications as officers will be required to produce the new design codes and guides, whilst still determining applications under the existing system. It is considered that developers would need to be involved upfront to help share costs.
- 3.10 Likewise, whilst proposals to use digital solutions to help streamline decision-making (e.g. standardised templates or automated systems to help validation) and make Local Plans more interactive and map-based are welcomed, they will require significant investment to upgrade.
- 3.11 The retention of neighbourhood planning is supported but again resources will need to be made available if groups are to create more digital plans and lead on design codes. They are unlikely to have the budget or expertise to take these issues forward. If not, they will have to rely increasingly on help from the District Council, which will create an additional burden on resources.
- 3.12 The White Paper suggests that some of the costs for ensuring planning teams are sufficiently resourced should come from the infrastructure levy so it is funded by the developers and landowners that will benefit. This is supported in principle as it would mean planning policy and enforcement teams will no longer be funded solely from council budgets. However, it is unlikely that all costs can be covered and it should not be at the expense of delivering the infrastructure required by the new development. There is only a finite amount of funding from new development.
- 3.13 As such, it is imperative that local planning authorities are given sufficient Government funding to take forward the

reforms or they will be undeliverable.

### *Strategic Planning*

- 3.14 The Council is disappointed that the White Paper fails to address the importance of strategic planning and the role it plays in addressing cross-boundary issues. Different functions are managed at different scales and many issues that underpin the delivery of sustainable growth depend on planning and funding on a larger scale. Infrastructure is a key strategic issue that will underpin decisions about growth locations and needs to be planned for. Likewise if the Duty to Cooperate is abolished and not replaced with a strategic mechanism how will unmet housing need from adjoining authorities be addressed? The top-down allocation of binding housing targets provides no clarity on how this will be addressed and the impact this will have on the wider housing market area. This creates uncertainty for the Council and makes it difficult to determine the most sustainable growth strategy for the district.

### *Member and public Involvement*

- 3.15 It is concerning that beyond the local plan stage there is very little opportunity for community engagement which seems to run counter to the idea that the system will improve engagement. The White Paper emphasises that there will be greater public engagement at the local plan stages but the 30 month timetable does little to facilitate enhanced engagement, particularly in areas such as East Herts which are likely to have high numbers of comments to process and consider. Likewise, whilst Members will be able to inform the local plan process it will be difficult in the timetable proposed. Also, if the housing target is set nationally there will be no opportunity for local scrutiny by Members.
- 3.16 It is also important to note that digital technology does not automatically mean the plan is more accessible to everyone and that all people will engage, or that they will support the Plan. Also, whilst public involvement in design codes is welcomed it will be very difficult to secure any form of

consensus regarding good design and there is no clarity about who arbitrates this process.

#### *Decision-making*

- 3.17 National development management policies, design code criteria and the use of pattern books in renewal areas for the pre-approval of popular and replica developments will mean there is less discretion in the decision process. This will help avoid policy repetition and will speed up the application process for various locations and type of development. However, measures to speed up the process, should not be at the detriment of the quality of development or local democracy. The Council is concerned the 'pre-approval of popular and replica designs through permitted development' in renewal areas could result in identical development across the country which would not reflect the local vernacular and could lead to the standardisation of development rather than high quality design. Caution should be taken about automated decision processes because there may be many 'grey areas' in terms of how proposals relate to the rules, which require professional planning judgement and negotiation.
- 3.18 Mandatory application deadlines are flawed as extensions are often given due to applications providing insufficient information or due to delays from statutory consultees. If extensions are not allowed, applications in these circumstances may be refused.
- 3.19 Finally, proposals allowing architectural specialists to have autonomy from routine listed building consents, could represent a conflict of interest. Experienced architectural specialists would need a licence or accreditation scheme.

#### *Infrastructure Levy*

- 3.20 Having a levy is a good idea in theory as it avoids lengthy Section 106 negotiations and the inclusion of permitted development in this process is welcomed. However, the Council has concerns that a flat-rated levy across East Herts will have no relationship to mitigating the impacts of the



development. The flexibility of Section 106 agreements is an important means of ensuring the relevant infrastructure for a particular site comes forward. It is unclear how the levy will take account of site specific viability issues. More clarity is needed to explain how new development will fund competing infrastructure requirements to ensure sufficient infrastructure is funded. On-site levels of affordable housing must be maintained, or increased. Local authority borrowing against projected receipts to forward fund infrastructure will help with delivery but does have risks if sufficient funds are not recouped from the development.

### *Enforcement*

- 3.21 There is no detail on how new enforcement powers would work or be resourced in practice. A review of the court procedure is necessary and greater strength needs to be given in particular to local authorities' enforcement powers in respect of unauthorised traveller developments.

### ***Next Stages***

- 3.22 The Council will submit the response in **Appendix A** to the Government, before the consultation closes on 29 October 2020. Subject to the outcome of the consultation the Government will bring forward primary and secondary legislation and policy changes in due course.

## **4.0 Options**

- 4.1 The Council could choose not to respond to the consultation.

## **5.0 Risks**

- 5.1 Not responding to the consultation will mean that the Council misses the opportunity to respond to the Government in relation to key concerns about the proposed planning reforms.

## **6.0 Implications/Consultations**

- 6.1 This report is a response to the Government's Planning White Paper 'Planning for the Future'.

## **Community Safety**

No

## **Data Protection**

No

## **Equalities**

No

## **Environmental Sustainability**

No

## **Financial**

No there are no financial implications of responding to the consultation.

## **Health and Safety**

No

## **Human Resources**

No

## **Human Rights**

No

## **Legal**

No

## **Specific Wards**

All Wards

## **7.0 Background papers, appendices and other relevant material**

- Planning White Paper, Planning for the future, August 2020  
<https://www.gov.uk/government/consultations/planning-for-the-future>

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