

White Paper: Planning for the Future – Implications for Devon County Council

Report of the Head of Planning, Transportation and Environment

Please note that the following recommendation is subject to consideration and determination by the Cabinet (and confirmation under the provisions of the Council's Constitution) before taking effect.

Recommendation: That the Cabinet notes the content of this report and agrees that the detailed response to the White Paper questions is delegated to the Head of Planning, Transportation and Environment in consultation with the Leader of the Council.

1. Summary

- 1.1 This report summarises the Government's new vision for England's planning system. The Council's response will be limited to those areas where there will be a direct impact on the planning functions, corporate goals and statutory responsibilities of Devon County Council.

2. Introduction

- 2.1 In August 2020 the Ministry of Housing, Communities and Local Government (MHCLG) launched its White Paper entitled 'Planning for the Future' as an open to everyone consultation which runs until 29 October 2020. The consultation description is:

'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.'

- 2.2 The Planning for the Future White Paper is available to view at:
<https://www.gov.uk/government/consultations/planning-for-the-future>
- 2.3 Alternatively, a one-page summary of the White Paper is available at:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/907469/One_Pager_v4.pdf
- 2.4 The consultation document identifies a series of national challenges including shortage of high-quality homes; combating climate change; improving biodiversity; and, supporting sustainable growth and considers that the current planning system adversely impacts on addressing these challenges. Specifically, that, in Government's view, the planning system is:
 - Too complex.
 - Planning decisions are discretionary rather than rules based.

- It takes too long to adopt a local plan.
- Assessments of housing need, viability and environmental impacts are too complex and opaque.
- It has lost public trust.
- It is based on 20th-century technology.
- The process for negotiating developer contributions to affordable housing and infrastructure is complex, protracted and unclear.
- There is not enough focus on design, and little incentive for high quality new homes and places.
- It simply does not lead to enough homes being built.

2.5 In order to address these issues, the White Paper sets out a series of ambitions for a new planning system:

- be more ambitious for the places we create, expecting new development to be beautiful and to create a ‘net gain’ not just ‘no net harm’;
- move the democracy forward in the planning process and give neighbourhoods and communities an earlier and more meaningful voice in the future of their area as plans are made;
- improve the user experience of the planning system, to make planning information easier to find and understand and make it appear in the places that discussions are happening;
- support home ownership, helping people and families own their own beautiful, affordable, green and safe homes, with ready access to better infrastructure and green spaces;
- increase the supply of land available for new homes where it is needed to address affordability pressures, support economic growth and the renewal of our towns and cities, and foster a more competitive housing market;
- help businesses to expand with readier access to the commercial space they need in the places they want and supporting a more physically flexible labour market;
- support innovative developers and housebuilders;
- promote the stewardship and improvement of our precious countryside and environment, ensuring important natural assets are preserved, the development potential of brownfield land is maximised, that we support net gains for biodiversity and the wider environment and actively address the challenges of climate change; and
- create a virtuous circle of prosperity in our villages, towns and cities, supporting their ongoing renewal and regeneration without losing their human scale, inheritance and sense of place.

2.6 The White Paper goes on to identify the key proposals which are described as three pillars, each of which seek to tackle different elements of the planning system and these are discussed below.

- Pillar 1 – Planning for development
- Pillar 2 – Planning for beautiful and sustainable places
- Pillar 3 – Planning for infrastructure and connected places

2.7 Whilst the examples in the White Paper refer only to the type of development which would be typically be seen in district local plans (mainly housing and employment) it has been confirmed that the planning reforms would equally

apply to county planning functions; mineral and waste local plans and county matter planning applications. It is also noted that the White Paper does not try and deal with all of the infrastructure issues that concern county functions and this will be further informed by the consultation process. There are many detailed questions to respond to in the consultation, this report aims to identify 5 key issues that are of significant concerns to the Council.

- 2.8 The government would like to see new local plans in place by the end of this current parliament, which would require the passing of new planning laws in 2021.

3. Key Proposals

Pillar 1 – Planning for development

- 3.1 The Pillar One proposals relate to planning for development and would impact on the Council's planning functions in several ways.
- 3.2 The Government proposals look to reform and simplify local plans. Under this proposal local plans will have growth areas, renewal areas and protected areas. Growth areas identified in local plans will effectively have outline permission and renewal areas would have a presumption in favour of development.
- 3.3 The Government proposes a standard method for establishing housing requirement figures and it is worth noting the ambition of the Government is to provide 300,000 new home annually in England and one million by the end of Parliament and establishing a standard method for calculating housing requirements is a key proposal to achieve this. It is the district councils' role to identify and allocate the growth and renewal areas.
- 3.4 The Government proposes that local plans should be visual and map based, standardised, based on latest digital technology, and supported by a new template. Minerals can only be worked where they occur, and this lends itself to mineral plans being map based and greater use of new technology could ensure that planned new quarries are better known to the public.
- 3.5 Local authorities and the Planning Inspectorate will be required through legislation to meet a statutory timetable for key stages of the local plan process and the Government is considering what sanctions there would be for those who fail to do so. This proposal would require that the maximum timescale for the adoption of a local plan would be 30 months, with an expectation that many authorities would achieve this in a shorter timescale. This would largely be achieved by a streamlining of the current process with a change in the method of calls for sites and a quicker drawing up of the draft local plan.
- 3.6 Local plans would be subject to a single statutory 'sustainable development' test with fewer of the requirements which, in the Government's view, delay the plan making process. Specifically the current Sustainability Appraisal would be replaced with a simplified process of assessing the environmental impact of a plan; the Duty to Cooperate test would be removed; and, there would be a slimmed down assessment of deliverability of the plan in the form

of a 'sustainable development' test. The White Paper acknowledges that further consideration will need to be given to the way in which strategic cross boundary issues (such as transport infrastructure) can be planned for. It also notes that local plans should be informed by appropriate infrastructure planning.

Pillar 1 – Issue 1 – Identification of Minerals and Waste Sites

- 3.7 This Council is required to plan for the necessary infrastructure and ensuring a steady supply of aggregates to facilitate this level of development. This includes the preparation of a minerals and waste local plan and it is unclear how proposed new system would operate in the case of such plans. For example, it is difficult to see how areas of mineral deposit could be designated as growth areas and many areas of mineral deposit in Devon are inconveniently found in open countryside, places which would be in areas likely to identified as protected areas.
- 3.8 In the identified growth areas, there would be an automatic grant of outline planning permission for the principle of the development. This causes an issue in the allocation of mineral sites. The process of allocating mineral sites in local plans is highly controversial and the move from allocation to planning permission is often difficult and such mineral (and waste) applications are highly controversial requiring very detailed supporting information. Because of this it does not follow that full planning permission will be granted following allocation in a plan.
- 3.9 Given the specific nature of mineral planning it might be difficult to adapt the process into the key stages identified in the required 30 months. The change waste treatment from disposal by landfill to treatment by methods such as incineration may lead to some difficulties when taking a standardised approach. Whilst modern treatment can take place on industrial estates it is more difficult to allocate sites for purposes such as inert waste disposal, which tend to come forward on an ad hoc basis.

Pillar 1 – Issue 2 – Local Issues for Minerals and Waste Sites

- 3.10 The White Paper is also recommending that there would be a suite of national development management policies and the local plan development management policies would be restricted to area specific requirements and examples given are heights of buildings, scale and density of development and could include requirements for design codes. With minerals development management there are some common issues that could be dealt with, such as dust control and noise limits, but each quarry (and often waste site) presents its own challenges and it would present difficulties to have national policies that would adequately cover each site.
- 3.11 The Government is proposing faster and more certain decision making, with firm deadlines and greater use of digital technology. In dealing with mineral and waste planning applications in Devon, applicants are encouraged to use the pre-application service, and this has generally resulted in an improved standard of submission if used. However, given the nature of large mineral and waste proposals it is usual that additional information is requested (usually relating to environmental protection) before decisions can be made.

With applications subject to Environment Impact Assessment the level of information required at the planning application stage is substantial. This indicates that, so far as major minerals and waste applications, firm deadlines could only be achieved with a large amount of upfront work which the minerals and waste industries are mostly reluctant to undertake given the uncertainty of gaining a planning permission later. This is of significance for the wider development industry which relies on a steady supply of minerals, particularly aggregates.

Pillar 1 – Issue 3 – Essential Infrastructure Issues

- 3.12 There would be a local plan single ‘sustainable development’ test, replacing the existing test of soundness. The Government recognises that achieving sustainable development should be retained but is looking to streamline the current process with a simpler test in order to speed up the plan making process. In its roles as transport and education authority this Council recognises that there are often cross boundary issues that need to be addressed when planning for development. School catchment areas do not necessarily align with local plan boundaries, similarly health impacts are often cross boundary and it is usual that transport improvements that are required to facility development are often not in the district where the development is taking place. The County Council would need to ensure that cross boundary infrastructure necessary to facilitate development is provided at the appropriate stage in the development process.
- 3.13 When thinking about infrastructure that the County Council is responsible for in order to support residential and commercial development it is important that permission for the necessary off-site infrastructure is in place at the same time and is provided at the appropriate stage of the allocated development. It is not clear what the mechanism to achieve this would be.
- 3.14 In dealing with the Council’s own applications for transport schemes and schools, it is recognised that these are often critical infrastructure and time sensitive and a standardisation of technical information required to support such applications may assist in determining such applications sooner. However, it is important that correct level of technical information is provided.

Pillar 2 – Planning for beautiful and sustainable places

- 3.15 The Pillar Two proposals relate to planning for beautiful and sustainable places and would involve the production of design guides; masterplans; adaptation to climate change; assessing and addressing environmental impacts; conserving and enhancing historic buildings; and, achieving carbon net-zero by 205.
- 3.16 The Government recognises that good design is key to providing development that is acceptable to local communities and specifically references it’s wider vision for cycling and walking and is proposing a revised and consolidated Manual for Streets which will provide the starting basis for community inputs into the design process. This is welcomed and the Council, in its role as transportation authority will have an important role in providing advice and guidance into such documents.

- 3.17 The Government is thinking about a new simplified system of environmental assessment and mitigation which would require the supply of information earlier in the stage of a plan or project, and this would be consolidated in one place so far as possible. Certainly, the production of environmental information is time consuming, but it is important that adequate safeguards are maintained. Changes to how environmental considerations are considered will be subject of a further consultation in the autumn.
- 3.18 The commitment to net-zero by 2050 is welcomed and the Devon Climate Emergency partners are forming a specific response on climate change issues arising from the White Paper consultation.

Pillar 3 – Planning for infrastructure and connected places

- 3.19 The Pillar 3 proposals relate to planning for infrastructure and connected places, the main thrust of which is the replacement of the current Community Infrastructure Levy and Section 106 planning obligations with a new consolidated Infrastructure Levy. The key parts of the new levy would be that it would be a single rate set nationally; it would be based on the final value of the development; would be levied at the point of occupation; and, the collecting authority could borrow against predicted receipts in order to forward fund infrastructure.
- 3.20 The capture of increases in land values as a result of development is vital in order to provide a contribution for infrastructure necessary to support development and is a well-established and accepted means of providing new schools, transport and community infrastructure. However, the operation of the current Community Infrastructure Levy (CIL) scheme has led to poor outcomes for Devon County Council as it has no direct access to funds. Where Section 106 agreements have been negotiated by Devon County Council outcomes have generally been better in terms of securing some funding, but such negotiations can be complex (involving viability assessment), be very time consuming, and too often provide insufficient funds for critical infrastructure.
- 3.21 A new infrastructure levy has the opportunity of overcoming some of these issues to secure a greater proportion of land value uplift to deliver infrastructure and affordable housing. Fixing the levy rate would make for a simpler system without the need for resource and time intensive CIL testing. However, the effectiveness of such a levy, particularly in funding critical education, transport and other infrastructure in two-tier areas such as Devon, is unclear.

Pillar 3 – Issue 4 – Funding of Essential Infrastructure

- 3.22 If the new system required county councils to seek infrastructure funding from the charging authority as is currently the case with CIL, there is a real likelihood that insufficient funding will be made available for infrastructure which is critical to mitigating development impact and creating high quality development.
- 3.23 In order to fund this critical infrastructure effectively and with greater certainty, provisions should be made to require an appropriate proportion of

Infrastructure Levy receipts to be provided to county councils in two tier areas. In addition, the mechanisms for the new levy should retain the ability for land to be provided to local authorities in lieu of levy payments to facilitate infrastructure delivery (for example to support provision of schools, transportation and community facilities).

- 3.24 The White Paper considers whether local authorities should have fewer restrictions on how they spend the Infrastructure Levy. As the education and transportation authority, this is of great concern to Devon County Council as fewer restrictions on how the levy is spent would be likely to reduce the amount of money available for the critical infrastructure the Council is responsible.

Pillar 3 – Issue 5 – Levy based on Final Value

- 3.25 The implications of charging the levy on the final value of the development also need further consideration. This would mean less certainty regarding potential receipts which makes securing an appropriate funding package for infrastructure more difficult. Alongside the revisions which would see payments made on occupation (as opposed to in instalments which is the case for CIL) and the potential need for borrowing against levy receipts, this increases local authority financial liability and risk if they seek to deliver infrastructure in phase with development.

4. Options/Alternatives

- 4.1 There is no requirement for the council to engage with the consultation process but given the potential impacts of the proposed changes in planning legislation would have on Devon County Council interests it is considered appropriate to make views known to Government.

5. Consultations

- 5.1 An internal consultation on the White Paper has been carried out and responses will be incorporated into the consultation response questions where appropriate.

6. Financial Considerations

- 6.1 New primary legislation will be required to make the proposed changes and it is likely that the implementation and operation of a new planning system would have financial implications for the authority. But these implications will not be understood until later stages in the Parliamentary process.

7. Legal Considerations

- 7.1 There are no specific legal considerations at this stage in the consultation process.

8. Environmental Impact Considerations (Including Climate Change)

- 8.1 The changes to the planning system is likely to have significant environment impact considerations. However, these will not be properly understood until the later stages of the Parliamentary process. It is noted the specific

proposals relating to environmental legislation will be consulted upon this autumn.

9. Equality Considerations

- 9.1 In considering the consultation responses the Government will be considering the potential impact of the proposal on the protected characteristics as defined in section 149 of the Quality Act 2010

10. Risk Management Considerations

- 10.1 The consultation response will be assessed, and all necessary safeguards will be taken to safeguard the Council's position.

11. Public Health Impact

- 11.1 The proposed changes to the planning system may result in a positive public health impact.

12. Reasons for Recommendations

- 12.1 The White Paper consultation raises several specific and technical issues which will have a direct impact on the planning functions, corporate goals and statutory responsibilities of Devon County Council. This report highlights the five most significant issues for Devon County Council, and it is considered that it would be appropriate for officers, in consultation with the leader of the Council, to submit a response to the Government consultation.

Dave Black, Head of Planning, Transportation and Environment Chief Officer

Electoral Divisions: All

Cabinet Member for Policy, Corporate, Resources and Asset Management:
Councillor John Hart

Chief Officer for Communities, Public Health, Environment and Prosperity: Dr Virginia Pearson

Local Government Act 1972: List of Background Papers

Contact for Enquiries: Mike Deaton, Chief Planner

Tel No: 01392 383000

Room: County Hall, Exeter EX2 4QD

Background Paper	Date	File Reference
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Nil

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