

REPORT TITLE: RESPONSE TO THE GOVERNMENT'S WHITE PAPER ON
PLANNING REFORM - "PLANNING FOR THE FUTURE"

21 OCTOBER 2020

REPORT OF CABINET MEMBER: CLLR JACKIE PORTER, CABINET MEMBER
FOR BUILT ENVIRONMENT & WELLBEING

Contact Officer: Simon Finch Corporate Head of Regulatory Tel No: 01962
848271 Email sfinch@winchester.gov.uk

WARD(S): ALL

PURPOSE

The Ministry of Housing, Communities and Local Government is consulting on a White Paper entitled 'Planning for the Future, which proposes major changes to the planning system both in relation to the way Local Plans are made, and their format, and how development management operates .

The Government proposes a 'new vision' for the planning system to unlock growth and opportunity, encourage beautiful new places, support town and city centres and the revitalisation of existing buildings, as well as supporting new development. It is looking to deliver a more responsive and streamlined system appropriate for the 21st Century with an interactive digital open data approach that is intended to make planning services more efficient, inclusive and consistent in terms of decision making.

The purpose of this report is to summarise the key proposals in the White Paper and to recommend the Council's formal response to this consultation document.

A number of the proposed reforms are considered sensible and logical improvements to create a modern and more efficient planning system but there are a number of areas which lack detail, making an informed comment difficult, and others where serious concerns exist about how the new system would operate in practice and whether it would deliver the Government's intended outcomes. These are explained in the report and reflected in the response recommended to the consultation.

RECOMMENDATIONS:

That cabinet:

1. Approves the Council's response and submission to the Government White Paper 'Planning for the Future' consultation issued by the Ministry of Housing, Communities and Local Government, as set out in Appendix 1.
2. Agree that the City Council explore in principle working as a pilot authority with central government to develop a new-style local plan for Winchester City Council.
3. Agree that the City Council seek a meeting with the Ministry of Housing Communities and Local Government with a view to seeking clarification about how the City Council can progress a local plan bearing in mind the significant increase in housing numbers that are proposed in the government's consultation document.
4. That delegated authority be awarded to the Strategic Planning Manager in consultation with the Cabinet Member for Built Environment and Wellbeing to make minor and typographical updates to the consultation response in Appendix 1.

IMPLICATIONS:**1 COUNCIL PLAN OUTCOME****Tackling the Climate Emergency and Creating a Greener District**

- 1.1 The White Paper suggests that its aim is to create a greener planning system and address the climate emergency, but the Government is working to a different zero carbon target to the Council (2050). It is considered that the reforms do not make it clear how the planning system is to respond more effectively to the climate change crisis. In the consultation document there is no description of how radical reductions in carbon will be delivered by the new system or how the zoning approach will respond to impacts of climate change. The recommended consultation response makes comments as necessary in response to the government's questions.

Homes for all

- 1.2 The White Paper's proposals are aimed at significantly increasing the number of homes provided nationally and include the Government setting targets for the dwellings to be delivered in the District. It is recommended that the Council objects to these proposals on the basis that it is not clear how the binding targets will be set and what involvement there would be for local authorities to make a case to reduce the number of homes in order to address constraints on development and, in the Council's case, the point that 40% of the district is located within the South Downs National Park for example.

Vibrant Local Economy

- 1.3 The White Paper is proposing major changes to the planning system which are aimed, amongst other things, at making it quicker and more predictable for businesses in terms of decision making on development proposals. Comments are recommended in relation to the various questions posed in the White Paper. However, the primary focus of the White Paper is focussed around the delivery of housing and is silent on how the proposals will be used to promote low carbon sustainable employment development that is located close to where people live.

Living Well

- 1.4 An important part of the Council Plan is that it considers and addresses the needs of all of our residents across all age ranges and abilities. The White paper is not specific about how particular needs should be addressed, although it does promote high quality design and greenspace.

Your Services, Your Voice

- 1.5 The White Paper proposes substantial changes to the planning system with a view to improving the planning service and making it easier for people to get involved in planning issues at the plan making stage, where it is intended that

decisions in principle should be resolved. This is intended to increase certainty for developers and communities so when proposals to develop land come forward, after a plan is adopted, they will be approved quickly if compliant with the requirements of that plan.

2 FINANCIAL IMPLICATIONS

2.1 The White Paper proposes major changes to both the local plan and development management systems. The aim is to make these faster and more efficient, although it is not currently clear what the exact financial implications would be. It is likely that streamlining the process of securing planning permission to build could lead to a revised schedule of planning charges, which are set nationally, and a reduced volume of applications which could collectively result in a fall in fee income. It is also possible a new style plan, which will be digitally based and interactive with emphasis of design codes and master planning, may be more costly to develop although reducing the time taken to adopt a plan and removal of certain technical requirements may help to off-set these costs. A lack of detail means that the overall financial impact cannot be quantified at this point and is, therefore, a concern that has been raised in the responses to the White Paper.

2.2 The White Paper also proposes that the current methods of securing developer contributions towards the delivery of infrastructure, through the Community Infrastructure Levy and s106 obligations, should be replaced by a new nationally-set Infrastructure Levy. Payments under the Levy would be made to planning authorities and would also replace contributions for affordable housing. It is claimed that this would achieve a greater level of contributions and affordable housing provision, although this will depend on the levels set for the Levy, which will also need to maintain development viability.

3 LEGAL AND PROCUREMENT IMPLICATIONS

3.1 The “Change to the Current Planning System - Consultation on Changes to Planning Policy and Regulations” White Paper, was issued by the Ministry for Housing, Community and Local Government. The proposed measures are to be implemented by central government through primary and secondary legislation. The white paper consultation period is open for comments until 29 October 2020.

3.2 In the White Paper the Secretary of State proposes a need to introduce a “simpler, faster, predictable planning system, that builds more homes, bridges a home ownership gap, creates a more competitive housing industry, ensures everyone pays a fair share of the costs of infrastructure and affordable housing, cuts red tape but not standards, with a higher regard on quality, design and local vernacular, and more emphasis on interactive and accessible map-based online systems”.

3.3 Additionally, central government are consulting separately on four associated amendments to the current planning system these being; changes to the

standard methodology for calculating housing requirement, First Homes, temporarily lifting the small sites threshold for affordable housing, and extending the current permission-in-principle to major development. The consultation period is open for comments until 1 October 2020 and the Council's response to the consultation was agreed by Cabinet on 29th September.

- 3.4 It is understood that central government are open to input through the consideration of submissions. Consequently the city council's response is important as primary and secondary legislation brought into effect though this consultation document becomes mandatory for the Council to implement and hence follow.

4 WORKFORCE IMPLICATIONS

- 4.1 The proposals contained within the White Paper will require changes to the Council's planning service (Development Management and Strategic Planning), which could have workforce implications. However, at this stage the Council is simply commenting on the Government's proposals and this work has been accommodated within the existing planning teams.

- 4.2 In order to raise the quality of design, the White Paper does include the requirement for local planning authorities to appoint a Chief Design Officer. Whilst this proposal is supported there is no detail on how this post would be funded or whether there would additional resources from government to fund this post.

5 PROPERTY AND ASSET IMPLICATIONS

- 5.1 The White Paper's proposed changes to the planning system could affect the Council's landholdings and the way in which it secures development consent, in the same way as anyone else. Also the changes proposed in relation to developer contributions would affect the Council, in particular the proposal that affordable housing could be funded by a new national Infrastructure Levy rather than negotiated as part of a planning permission and secured by legal agreement. However, the details are unclear exactly how this would work.

6 CONSULTATION AND COMMUNICATION

- 6.1 Consultation has been undertaken with other Service Leads, Executive Leadership Board and the Cabinet Member on the content of this report and the response to the questions that are contained in the White Paper. The Government's timescale for responses does not allow for wider consultation by the City Council, but responses can of course be made to the Government directly by the public, developers, businesses, parish councils, amenity groups and any other interested parties.

- 6.2 Briefings on these reforms have been provided for the Local Plan Advisory Group, all Council Members, Winchester Town Forum and parish councils and the feedback received has helped inform the response to the consultation appended to this report.

7 ENVIRONMENTAL CONSIDERATIONS

- 7.1 Many of the proposals contained in the White Paper (e.g. increasing the number of homes that the Council would be required to provide for in the local plan) would have an impact on the environment. The White Paper also proposes that the current system of Sustainability Appraisal would be replaced with something more streamlined, but suggests that the changes overall would conserve the most important environmental assets through a new statutory 'Sustainability test'. At the moment there are insufficient details to be able to assess the implications for the District.

8 EQUALITY IMPACT ASSESSEMENT

- 8.1 None arising from the content of this report. This is a Government consultation which has included a section on Public Sector Equality Impact Assessment. It is asking if there are there any direct or indirect impacts in terms of eliminating unlawful discrimination, advancing equality of opportunity and fostering good relations on people who share characteristics protected under the Public Sector Equality Duty. It is unclear how the proposals would affect provision for gypsies and travellers and disabled people requiring specialist housing and this point is made in the recommended comments.

9 DATA PROTECTION IMPACT ASSESSMENT

- 9.1 None required as a result of this report. The White Paper proposals for planning to be more accessible in digital forms could have data protection implications, but these would be for the Government to address initially.

10 RISK MANAGEMENT

- 10.1 There are limited (reputational) risks involved in the Council commenting on the White Paper and it is these which are the focus of the table below.
- 10.2 There are greater risks for the City Council's ability to deliver its objectives arising from the changes to the planning system which are proposed in the White Paper. Until the Government determines exactly what measures are to be implemented it is not possible to quantify these or any mitigation strategies. Ultimately the Government will implement those measures it considers appropriate, regardless of the impact on individual local authorities and these therefore lie beyond the City Council's risk management strategy at this stage.

Risk	Mitigation	Opportunities
<i>Property - none</i>	-	-
<i>Community Support – opposition to changes to the planning system</i>	The Council will have to operate the system prescribed by legislation but can comment on the White Paper and prepare for changes.	Opportunities to improve the local plan and development management consultation processes.
<i>Timescales – delays to the local plan.</i>	The proposed changes have resulted in work on the local plan being paused to await clarity over housing requirements, etc. The aim is to produce a 'Local Plan Action Plan' that progresses work on a 'White Paper-compliant' local plan as soon as possible.	Potential opportunities to work with Government to develop the local plan as a pilot for the new system.
<i>Project capacity – none directly at this stage but will need to be evaluated before a new system is introduced as this will impact upon resources needed in Strategic Planning and Development Management.</i>	Long term capacity to deliver Local Plan with greater public engagement will need to be considered when more details are known. New skills set needed to develop and manage the preparation of numerous Local Design Codes and financial investment in digital support that would be needed for the LP team. Planning for Infrastructure Levy would need to be part of Council's capital programme planning.	To develop a more responsive online system offering clarity to homeowners, developers and businesses and a greater opportunity for the City Council to lead on the delivery of infrastructure.
<i>Financial / VfM – Risk to planning fee income, developer contributions and funding provided by Community Infrastructure Levy (to be replaced by a single Infrastructure Levy)</i>	The major changes proposed in the White Paper could have a significant effect on planning fee income and developer contributions/infrastructure delivery. While the White Paper suggests the aim is to achieve greater funding for infrastructure the details are not yet clear so	Potential opportunities to increase developer contributions overall and therefore infrastructure investment and to suggest this in commenting on the White Paper.

	this is a potential risk. The position will need to be monitored and reviewed when more details emerge as reforms are finalised.	
<i>Legal – none at this stage of commenting on the White Paper</i>	-	-
<i>Innovation – none at this stage of commenting on the White Paper</i>	-	Application to be a pilot in the scheme.
<i>Reputation – criticism from the public and other interested parties if the council fails to respond to the consultation given the potential impact of these reforms on the district.</i>	It is important that the Council responds to the White Paper consultation and makes clear its views on the changes being proposed by Government.	Opportunity to make comments on how the Council thinks the proposals should be changed or improved.
<i>Other – none</i>	-	-

11 SUPPORTING INFORMATION:

Background

- 11.1 The Government published a White Paper entitled ‘Planning for the Future’ on 6 August. The White Paper has a 12-week consultation and invites responses to a series of questions. This report summarises the issues raised by the White Paper and recommends that the City Council submits its response to the White Paper as set out at Appendix 1.
- 11.2 The White Paper proposes radical changes to the planning system, particularly for local plans in terms of their format and way they are produced, on the basis that the Government views the current system as ‘inefficient, opaque and with poor outcomes’. There will also be important changes to Development Management in relation to how developers secure permission to build once a new plan has been adopted. Essentially the criticisms of the current system suggest it is too complex, discretionary, lacks transparency, time-consuming, is based on old technology, creates uncertainty and does not deliver sufficient quality or quantity of development (particularly houses with a Government aspiration of providing 300,000 new homes per year).
- 11.3 The Government proposes a ‘new vision’ for the planning system to unlock growth and opportunity, encourage beautiful new places, support town and city centres and the revitalisation of existing buildings, as well as supporting new development. It suggests the planning system should also move towards a modernised, digital approach that makes planning services more efficient, inclusive and consistent, and unlocks data.

11.4 To achieve this the White Paper's proposals fall under three key 'pillars', followed by a section also on delivering change:

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

The following sections set out and discuss the key proposals of each 'pillar'.

Pillar One – Planning for development

11.5 This section is concerned mainly with proposals to reform the local plans system, which the Government feels has become too complex and time-consuming with large amounts of evidence and appraisals and over-long and detailed plans. The White Paper proposes that local plans should focus on allocating land for development in the right places, to give certainty and simplify the process for getting permission for development thereafter and give local communities an opportunity to shape decisions at an early stage.

11.6 The intention of the changes are to produce plans that would allocate land to meet development requirements including a number of new homes that would be set by Government, present information visually on a map, follow a standardised process, re-invent engagement with local communities, and deliver beautiful and sustainable places. Following these aims a number of questions are posed about how people interact with the planning system. Questions 1-4 seem aimed mainly at members of the public but it is recommended that the City Council responds by setting out its concerns about the current system (Question 1) and its priorities for planning in the District (Question 4).

11.7 **Proposal 1** is that Plans should identify all land within the local plan area as one of three types:

- **Growth areas**, which are 'suitable for substantial development' (to be defined by Government) and may include large development allocations, urban extensions, new settlements and redevelopment areas. Once identified in an adopted local plan, sites in growth areas would automatically gain outline consent for the development specified in the plan.
- **Renewal areas**, which are 'suitable for development' and would cover existing built-up areas where 'gentle densification' and infill of residential areas, development in town centres, etc is allowed. This could include small sites on the edge of settlements or in rural areas. There would be a presumption in favour of development for suitable uses, with permission in principle or fast-track consents, but not automatic permissions.

- **Protected Areas**, which would include sites and areas where more stringent development controls are needed such as National Parks, conservation areas, wildlife sites, areas of significant flood risk and important green space. This would also include areas of countryside outside areas defined as Growth or Renewal and could also include smaller areas within settlements. Some areas would be defined nationally, others locally on the basis of national policy, with the relevant development restrictions defined in the National Planning Policy Framework.
- 11.8 New local plans would comprise an interactive map with all areas and sites colour-coded in line with their Growth, Renewal or Protected designation and explanatory descriptions in the key and accompanying text. This would list suitable uses and limitations, such as on height or density, which could vary in different sub-areas allowing a variety of uses, densities, etc to be promoted. The idea is that people can use the interactive map and search by postcode in order to establish what development can take place in a given area.
- 11.9 In Growth areas the Government expects sub-areas to be created for self-build and community-led housing and the plan would also need to set out what is permissible in Protected areas (subject to the NPPF). There would be a 'National Model Design Code' which development in Growth and Renewal areas would have to comply with, but with flexibilities in use allowed by the new Use Classes Order and permitted development.
- 11.10 The White Paper refers to alternative options of combining Growth and Renewal areas and giving permission in principle for developments in this combined area, or alternatively of just defining Growth areas (where automatic consent would be granted) with all other areas being subject to existing development management processes. Question 5 asks whether respondents agree with the proposals to simplify local plans.
- 11.11 This proposal leaves a lot of unknowns which will need to be defined by Government in due course, including the definition of 'substantial development' (in Growth areas), details of what will be permitted by national policy in Protected areas, how much detail can be specified for sub-areas, and the content of the National Model Design Code. The proposed 'three-area' approach could be a useful simplification if there were sufficient safeguards at national level to ensure sustainable development and infrastructure provision. But the risk is that arguably the most important and complicated developments (in Growth areas) could be the subject to the least control due to the proposals for automatic consent.
- 11.12 In a Winchester context, it would seem that large development areas such as North Whiteley, West of Waterlooville or Barton Farm would be identified as Growth areas (subject to the Government defining their scale), and this may also include important urban renewal sites such as the Central Winchester Regeneration area. The new local plan could specify in some detail the uses proposed, heights, density, etc by defining different sub-areas and there

would be a standard requirement for masterplanning. There could also be a site-specific design code to supplement the National Model Design Code. Other proposals elsewhere in the White Paper include replacing the Community Infrastructure Levy (CIL) and s106 obligations with a national Infrastructure Levy which would be paid to local authorities at the point of home or employment area occupation. Taken at face value, this proposal risks delivering finance and infrastructure too late in the process and it is not clear whether authorities would be able to phase development to prevent it from running ahead of infrastructure provision. There also appears to be the assumption that local planning authorities are the commissioning authority for all types of infrastructure which is not the case. The proposals also fail to recognise that sites are often in multiple ownerships which creates a problem with ensuring that the delivery of infrastructure coincides with the delivery of housing.

- 11.13 It is envisaged that Renewal areas would cover existing built-up areas so in Winchester District this might include those settlements currently with a settlement boundary and that these could be revised in conjunction with the local community to accommodate growth that needs to be planned for. Everywhere else is presumed to be a protected area unless the plan makes a specific development proposal for Growth or Renewal, so this would cover land defined currently as countryside. In Renewal and Protected areas much will depend on the detail of future Government policy about what may be permitted, and the extent to which the local plan could modify this if it was felt necessary.
- 11.14 Also, there will in practice be much debate about the definition of Renewal and Protected areas, as many residents may seek 'protected' status for their locality whereas Government policy may limit such areas. There will however be areas within settlements that should be protected such as open spaces and the Government suggests conservation areas would be defined as Protected. Renewal and Protected zones could go down to the very small scale, with the Government even suggesting possible protection of gardens, generating scope for considerable controversy and confusion. It should also be noted that designation as a Protected Area does not mean no development but would provide for much tighter controls than in Growth and Renewal areas.
- 11.15 The recommended response to Question 5 (see Appendix 1) suggests cautious support for the proposed definition of Growth areas, provided there is consultation on the elements which have yet to be put in place. It is likely that these areas would be identified anyway through local plan allocations under the current system and they are the most important to bring forward rapidly so as to deliver the additional housing needed. Considerable work would have to go into preparation for a Local Plan to define what 'Growth' development means for these areas, although in part this is the case now. However, the division of all other areas into Renewal or Protected areas may not be an improvement over the current plan making system and could create considerable problems, particularly at the very local level. Concern is raised

whether the three classifications are sufficiently sophisticated to enable consideration and retention of the quality and diversity of places across the district. However, identifying sub-areas to reflect changes in character could result in a myriad of small areas, each with their own design codes. This would be resource intensive and time consuming to produce with no benefit beyond what the current system achieves. There is also a risk that this type of approach could stifle the creativity and innovation of architects and developers that can produce high quality development which is different to the design code. There is a danger that Renewal areas could be vulnerable to harm due to building policies being set at the national level through the NPPF.

- 11.16 **Proposal 2** is that there would be a set of national development management policies set out in the NPPF and that any development management policies in local plans would be restricted to site or area-specific requirements, without repeating NPPF policies. Design guides and codes would be used to reflect local character and preferences, ideally produced alongside the local plan. This is seen as important for making plans more visual and engaging. Alternatives are for local authorities to continue to include these policies, but standardising them, or to carry on as at present but avoid repeating NPPF policies. Despite the Healthy Homes and previous consultations, there is no promise in this White Paper to reform the NPPF in a way to decrease the carbonisation of buildings or improve the value of green space between buildings.
- 11.17 It has to be accepted that local planning authorities spend a considerable amount of time and effort producing sets of general development management policies which are ultimately very similar and could be standardised. It would, therefore, make sense to have a national set of policies, although these too would need debate and consulted on in order to establish if they met for example, the aims and objectives of the Council Plan. In Winchester's case this would include protection of green spaces and aim for District wide carbon neutrality by 2030, and working with the SDNPA so that all buildings constructed or extended within the District are built to the same high standards. Therefore, it is recommended that in response to Question 6 the Council supports the proposed change, provided there remains scope for planning authorities to promote local plan policies that reflect particular local characteristics or needs. However, it is suggested that the White Paper's requirement for there to be "exceptional circumstances" for local policies is too onerous, as there will be policy subject areas that are specific locally (such as nitrate neutrality).
- 11.18 In relation to the suggested option of technical standards for Listed Buildings, this could work if they were advisory best practice style guides, but flexible enough to allow for interpretation/adaptation in relation to impacts on the heritage asset in question. It is considered that the conservation of historic buildings is best achieved by making the building usable, with high quality materials and sympathetic use.

- 11.19 **Proposal 3** is to replace the current local plan 'tests of soundness' with a 'sustainable development' test. This would involve abolishing the requirement for Sustainability Appraisal, the Duty to Co-operate, and tests of deliverability, which would be replaced by simplified and streamlined requirements. It is suggested that the new style digital local plans would help authorities engage on strategic cross-boundary issues. An alternative suggestion would be to retain the tests of soundness but to make them easier to achieve, for example by identifying reserve sites to ensure delivery. Winchester has a unique challenge: the South Downs National Park, with its own policies, sits (partially) within our Local Authority district. It must be good practice to have at least an informal duty to co-operate especially to discuss cross boundary matters such as infrastructure issues.
- 11.20 It is agreed that the current requirements can be extremely onerous and do not always contribute hugely to the quality of the plan. Sustainability Appraisals in particular have become so detailed and lengthy as to be incomprehensible to most people. On the other hand, without the Duty to Cooperate there would be no requirement to consider planning beyond the District level. The previous Government elected in 2010 abolished regional spatial strategies because they imposed unpopular housing targets on local areas. However, under the new system it is now proposed to set binding targets centrally and without any tier of planning between the district and national level. Developments adjoin other authorities, with the impact felt by residents in both authorities, but there is no requirement for a developer to consult with the neighbouring local authority. With the proposal to remove the requirement to demonstrate a 5-year land supply, the main role of planning authorities would seem to be to identify development opportunities, with the development industry responsible for delivery.
- 11.21 Question 7a asks whether respondents agree with the proposal for a new 'sustainable development' test and it is recommended that this is supported, though comments have been made in Appendix 1, regarding the importance of considering climate change and biodiversity in delivering sustainable development. Question 7b asks how strategic cross-boundary issues can be planned for in the absence of the Duty to Cooperate. This is a pertinent question given the absence of proposals in the White Paper and it is recommended that the City Council promotes the need for some form of regional or sub-regional planning, which would ultimately identify and plan for development, employment needs, and towards a lower carbon economy and lifestyle.
- 11.22 **Proposal 4** is to introduce a new standard methodology which would determine binding housing requirements, based on achieving a national target of 300,000 dwellings per annum. The new formula for the standard requirement would increase housing requirements in areas with poor affordability but would also take account of the size of urban areas, brownfield potential and constraints, unlike the current methodology. However this has not been addressed in the 'algorithm' or equation set out in the Changes to The Planning System paper recently consulted upon. Planning authorities

would be required to plan for their housing requirement within their district, although the option of (voluntary) joint planning arrangements with other authorities is retained and is to be welcomed.

- 11.23 The requirement to demonstrate a 5-year housing land supply would be removed given the requirement to allocate deliverable sites to meet the standard methodology figure, although the Housing Delivery Test would remain. An alternative option mentioned in the White Paper would be to leave the calculation of housing need at the local level, but underpinned by a standard methodology and retaining the requirement to demonstrate a 5-year land supply.
- 11.24 A separate technical consultation has been published which includes proposals for updating the current standard methodology calculation ('Changes to the current planning system'). Because of the shorter consultation period for this document, a report on it was considered by Cabinet on 29th September 2020. This update does not set a binding housing requirement and it does not take account of constraints, so it will be different from the new standard methodology proposed in the White Paper, which will take account of constraints. However, the method of generating a housing number may be the same or similar before any adjustment is applied because of local constraints. Under this apparently interim update to the standard methodology the City Council's local housing need would increase considerably, to 1,024 dwellings per annum from just under 700 currently (under which a 5-year land supply can be achieved). The main reason for this increase is that the affordability 'multiplier' now includes an element for the change in affordability over the last 10 years, in addition to a factor for the current affordability level, and removal of a cap on numbers.
- 11.25 It is a concern that the imposition of a new calculation for housing numbers so soon after the number was adjusted for updated affordability data in Spring 2020, then the 'Changes to the Current Planning System' consultation and now the new Local Planning system, will create confusion. It is unclear what the standard methodology requirement will be under the White Paper proposals, as these propose a different methodology taking account of constraints but, as mentioned above, the starting point may well be the formula outlined in the other consultation. It might be assumed it would be adjusted and would be substantially lower given that 40% of the District is in the South Downs National Park, but this cannot be assumed that this will be treated as a 'constraint' and if all authorities' requirements are reduced due to local constraints the national target of 300,000 dwellings per annum would not be met. For example, the Government has indicated that Green Belt would remain protected and this would remain a considerable constraint for some authorities, such as London Boroughs. There is also no detail on exactly how the requirement would be calculated or the process for determining it, and how open and transparent this would be. Given the potential range of figures for Winchester, there is great uncertainty caused by the current consultations, resulting in work on the Local Plan 2038 being paused to take into account the Government's proposed changes to the planning system.

11.26 Question 7 asks whether respondents agree that the new standard methodology should be introduced, taking account of constraints, and whether affordability and the extent of existing urban areas are appropriate indicators. In commenting on the updated standard methodology consultation the City Council criticised the 'double weighting' of affordability in the methodology and the failure to take account of constraints (especially the fact that as stated in paragraph 11.23 40% of the district is located in the South Downs National Park and National Park house prices inflate the affordability figure for the District). The effect of this could be that higher property values in the National Park result in reduced District-level affordability and lead to an increased housing requirement, but at the same time this large part of the District is excluded from contributing additional housing as the City Council is not the local planning authority (this function is delivered by the South Downs National Park Authority). Therefore, while the Council would support a new methodology that takes constraints into account, the detail of how the various components of the methodology are weighted to arrive at an overall requirement is unclear in the White Paper. The Council could not give support to an open-ended methodology which, on current indications, could result in a binding target that is so high as to be undeliverable without causing significant harm to the district and the green spaces within it.

11.27 **Proposal 5** is that outline planning consent for the principle of development would be granted automatically in Growth areas on adoption of the local plan. There would be a streamlined route for detailed consent, focusing on good design and site-specific technical issues, either by:

- a reformed reserved matters process;
- a Local Development Order which could be prepared in parallel with the Local Plan and be linked to a master plan and design codes; or
- for exceptionally large sites such as a new town, exploration of whether a Development Consent Order under the Nationally Significant Infrastructure Projects regime could be an appropriate route, or Development Corporations.

11.28 In Renewal areas there would be a strengthened presumption in favour of development that accords with the local plan, with consent granted in a number of ways::

- for pre-specified forms of development such as the redevelopment of certain building types, automatic consent if the scheme meets a local area design code or Conservation Area Assessment/Statement and other prior approval requirements;
- for other types of development, a faster planning application process where an application would be determined according to the Local Plan description of what the area or site is appropriate for, with reference to the National Planning Policy Framework; or

- a Local or Neighbourhood Development Order.

11.29 In Growth and Renewal areas it would be possible to bring forward a proposal that is different to the local plan but the emphasis on a plan-led system would be strengthened in legislation, so this is expected to be exceptional and would require a full planning application. Similarly all development in a Protected area would need a full planning application, which would be judged against the NPPF.

11.30 Question 9 asks whether respondents agree that there should be automatic outline permission in Growth areas and with the proposed consent arrangements for Renewal and Protected areas. Also whether there is a case for allowing new settlements to be brought forward under the Nationally Significant Infrastructure Projects regime (the Aquind interconnector proposal in Denmead and M3 Junction 9 changes are being determined under this procedure).

11.31 The proposal for automatic consents makes some sense given that the local plan would already have considered and agreed the principle of development and should specify key factors such as the land uses. However, much will depend on the conditions attached to an outline consent, which would be standard national conditions. The implication is that these should specify the need for a masterplan and compliance with the local plan and any design codes / SPD. This should be the minimum required, but it is unclear how conditions would deal with matters such as phasing of development, mitigation and infrastructure provision (usable homes cannot be built without access roads, etc), especially as it is proposed that s106 obligations would be abolished. It is likely that considerably more work would be needed at the local plan allocation stage to ensure that matters that might currently be the subject of conditions are specified in the local plan and can be delivered. There should be a requirement or agreement to provide a planning authority with finance to fund this work (with multiple sites / developers) before it reaches the Local Plan inspection stage, particularly as consent is given automatically at the approval of the Local Plan. The proposals also assume that the land is in one single ownership, which the city council knows from experience of working with developer on a number of Strategic Allocations that large sites are often in multiple ownerships which often causes a complication when trying to prepare any design codes/masterplans.

11.32 The proposals for Renewal and Protected areas leave a lot of detail to be decided in future by Government, and both refer to proposals being dealt with in accordance with the NPPF. As these details are not available and the NPPF has not yet been revised, there is concern that any controls could be too relaxed (or potentially too restrictive). Therefore it is recommended that only qualified support is given for these proposals. As for whether new settlements should be brought forward under the Nationally Significant Infrastructure Projects process, these do not appear particularly well suited to this route, nor necessarily of national significance. New settlements would be very complex and probably controversial proposals and the NSIP process

would imply that the need and form of the proposals would be approved in principle in advance by Government. There would also be no planning application fee payable. This is not considered appropriate, although if a new settlement is created a Development Corporation could be a suitable vehicle to manage it.

- 11.33 **Proposal 6** suggests that decision-making should be faster, more certain, and make greater use of digital technology. It is suggested there should be greater digitalisation of the application process with new software to encourage digital innovation. There would be shorter and more standardised applications and a reduced requirement for information to be submitted. This would allow information to be more easily accessed in a standardised form by the public, etc. Planning conditions will be set out in the NPPF, with scope for a few additional local conditions where necessary, and should be clearer and shorter. Ideally, in order to ensure consistency across the country, this would be linked to a template provided by the nationally hosted Planning Portal for clarity and to ensure similar information is provided nationwide.
- 11.34 Clear incentives to determine applications within the statutory time limits are proposed, such as the automatic refund of the planning fee for failure to determine within the time limit or consideration of whether some types of application should have deemed consent if there has not been timely determination. There would remain the ability to appeal against a decision but having greater certainty about the principle of development is expected to result in fewer and faster appeals. There would need to be a clear expectation for developers to provide correct information at submission.
- 11.35 Question 10 asks whether these proposals are supported and, while the principles seem laudable, much will depend on the detail of the arrangements. The recommended response at Appendix 1 suggests general support for the proposals, subject to the need to avoid a 'tick-box' exercise which prevents planning or design judgements being reached as height/density, etc should be established at the Plan making stage.
- 11.36 **Proposal 7** is that Local Plans should be visual and map-based, supported by a new template. The Government proposes to publish a guide covering data standards and digital principles, the more limited evidence that will be expected, and a "model" template for Local Plans, well in advance of the legislation. Local Plan text should be limited to spatially-specific matters and be accessible in a range of different formats. Plans should be fully digitised and web-based rather than document based, enabling a digital register of policies to be created and mapping platforms to access Local Plans. This will make it easier to identify what can be built where. The long-term aim is for data produced to support Local Plans to be accessible online in machine-readable format, linked to the relevant policies and areas.
- 11.37 The Government believes that these changes could help transform public engagement, with new ways for people to comment, including through social networks and mobile phones. The Government proposes pilots to work with

local authorities and the emerging 'PropTech' sector (using technology to optimise the way people research, rent, buy, sell, and manage property) to support plan-making activities and make community involvement more accessible and engaging. However, there is no detail on what level of financial assistance would be made available to local authorities in order for them to be able to embrace this new technology.

- 11.38 Question 11 asks whether respondents agree with these proposals. It is recommended that the City Council supports them in principle, again subject to the need to avoid plans becoming a 'tick-box' exercise and the provision of help with developing and providing the necessary technology. There is also a potential inclusion and accessibility challenge as not everyone is comfortable with using technology, or has access to adequate broadband.
- 11.39 **Proposal 8** is for legislation that will require planning authorities and the Planning Inspectorate to meet a statutory timetable for key stages of the process, with sanctions for those that fail to do so. The total local plan process would be limited to 30 months in most cases , divided into 5 stages:
- Stage 1 – 6 months for 'calls' for suggestions for areas under the three categories and public involvement on where development should go and what it should look like;
 - Stage 2 – 12 months to produce the proposed local plan, and any necessary evidence. "Higher-risk" authorities would have mandatory Planning Inspectorate advisory visits to ensure the plan is on track prior to submission;
 - Stage 3 – 6 weeks for the planning authority to submit the plan to the Secretary of State for Examination with its explanation of why it has drawn up its plan, and for the public to comment on it. This would embody 'best in class' ways of ensuring public involvement, with responses having a word count limit. It is important to note that this stage of the process will be the first time that local communities will see a version of the Local Plan
 - Stage 4 – 9 months for a Planning Inspector to examine whether the three categories shown in the proposed Local Plan are 'sustainable' and make binding changes as necessary to satisfy the test. The plan-making authority and those who submitted comments would have the right to be "heard" by the inspector (face to face, by video, phone or in writing – all at the inspector's discretion). The inspector's report could simply state agreement with the whole or parts of the council's Statement of Reasons, and/or comments submitted by the public;
 - Stage 5 – 6 weeks for the local plan map, key and text to be finalised and come into force.
- 11.40 There would be a time limit of 30 months to get a plan in place from legislation coming into effect, or 42 months where a plan had recently been adopted or

submitted for examination (not the case in Winchester). Therefore, Stage 1 above would have to commence immediately legislation came into effect. There would be a requirement for plans to be reviewed every 5 years and the government could intervene if the timescales were not met. The intention is that once an area has been 'zoned' it will be very easy for a local planning authority to update a Local Plan.

- 11.41 Alternatives are suggested which could include removing the 'right to be heard' from the examination process or even doing away with the examination altogether and using a self-assessment system, with auditing by the Inspectorate.
- 11.42 Question 12 asks whether respondents agree with the proposal for a statutory 30 month timescale for the production of local plans. It is recommended that the City Council supports a shorter timescale in principle but notes that the timescale for public consultation is very short and this seems to be contrary to the Government's intended aim of providing more opportunity for people to help shape plans. The time-limited stages above have very limited opportunities for public engagement and consultation prior to the Plan being submitted to the Planning Inspectorate. Also, the key stage (2) when the plan would be developed is not likely to be long enough to achieve the level of assessment and planning needed to allocate 'Growth' areas, given that these would then gain automatic outline planning consent. On the other hand, the period for examination of the plan (9 months) may be generous, given the possible limitations on face to face discussion and the need for a much simplified Inspector's report.
- 11.43 The City Council's local plan process has been paused in view of the uncertainty generated by the White Paper proposal and consultation on Changes to the current planning system, particularly in relation to housing numbers but also the 'three-area designation' approach and other changes. Whilst the Council needs to decide quickly how to progress its next plan it is likely to be developed as a 'White Paper-compliant' plan and in order to ensure that the Council can achieve this as effectively and quickly as possible it is recommended that the City Council puts itself forward as a possible pilot local plan subject to receiving assurance that there would be financial assistance for being a pilot authority. If successful, this could help to ensure that the new plan fully reflects the requirements for new-style local plans and may help provide additional resources to speed up the process and would ensure that the city council can help to shape and inform the new process.
- 11.44 **Proposal 9** is that Neighbourhood Plans should be maintained and communities supported to make better use of digital tools. The Government asks whether neighbourhood plans should be made more streamlined and digital, as proposed for local plans. They also ask whether there is scope to extend them to smaller areas, such as individual streets.
- 11.45 The take-up of neighbourhood plans in Winchester District has been very small, with only the Demand Neighbourhood Plan being 'made' and the

Twyford Plan being well advanced (South Downs National Park area). Instead, the City Council encouraged Parishes to work closely with it on the Local Plan Part 2. The White Paper states that nationally 2,600 communities have started neighbourhood plans although only 1,000 have passed the referendum stage. This perhaps reflects experience locally that neighbourhood plans can require a huge amount of effort and commitment to produce and this would be needed on an ongoing basis if they are to be reviewed regularly.

- 11.46 Given the limited take-up locally, it seems questionable whether the very limited reference in the consultation document to neighbourhood plans by Government is a good way forward, let alone extending them to smaller areas. On the other hand, if neighbourhood plans are to be retained it would make sense for them to be prepared in a similar way to new style local plans. It is, however, notable that no time limits are proposed on neighbourhood plan production, unlike local plans. It is recommended that these points be made in response to question 13.
- 11.47 **Proposal 10** is for a stronger emphasis on building out development by revising the NPPF to make clear that masterplans and design codes should be prepared for substantial development sites (Growth areas). Also, there should be a variety of different builders to allow more phases to come forward together. The Government proposes to explore further options to support faster build out as it develops proposals for the new planning system.
- 11.48 Question 14 asks whether respondents agree there should be a stronger emphasis on the build out of developments and what further measures would be supported. It is recommended that the City Council supports the principle of improving the build-out of development but points out that the measures proposed appear very limited and unlikely to prove effective. The White Paper seems to place the responsibility for delivery on developers, but has no clear proposals to improve delivery or prevent land-banking and still requires local authorities to achieve housing completions through the Housing Delivery Test.
- 11.49 It is recommended that the City Council highlights the need for clear incentives to implement major development in a timely way, and penalties where it is not, although it is accepted that it is difficult to devise these in a way that would ensure new homes are actually built. Where automatic outline consent is granted in Growth areas, there should be short deadlines for commencement, along with phasing requirements, although this seems difficult in the proposed absence of s106 agreements. There should be penalties for developers who don't implement automatic permissions within a set timescale, or start development only to keep the permission alive, including the ability to require developers to complete a scheme or appoint another developer or the ability for local authorities to start charging Council Tax. It may also be possible to incentivise higher building rates through the introduction of the proposed Infrastructure Levy where payments to local authorities by developers are linked to property values (see 11.74 below).

Pillar Two – Planning for beautiful and sustainable places

- 11.50 This section sets out the Government's proposals to ensure a planning system that enables the creation of beautiful places, protects and enhances the environment, and supports efforts to combat climate change and bring greenhouse gas emissions to net-zero by 2050. The aim is that planning should generate net gains for the built and natural environments, not just 'no net harm'. The Government considers that too much recent development fails to reflect what is special about a local area or create a high quality environment. It is stated that it will respond fully to the report of the Building Better, Building Beautiful Commission in the autumn, but the White Paper needs to be clearer in how this intent will be delivered by developers.
- 11.51 Question 15 asks what people think about the design quality of recent development and it is suggested that the City Council need not respond as this question is aimed more at members of the general public. However, Question 16 asks about priorities for sustainability in your area. It is important to note that whilst the consultation document acknowledges that climate change is central to important national challenges, the proposed reforms do not explicitly make it key priority and there is no description on how the proposed changes to the planning system will respond to the impact of climate change. It is therefore, recommended that the City Council draws attention to its Carbon Neutrality Action Plan, including its aim of setting policies for development standards and land use that reduce carbon and increase sustainability, and linking homes and employment opportunities.
- 11.52 The Government consulted in late 2019 on its proposals for a 'Future Homes Standard' whereby new homes would have to produce 75-80 per cent lower CO2 emissions compared to current levels. The White Paper promises a response to that consultation in the autumn but proposes to 'review the roadmap to the Future Homes Standard to ensure that implementation takes place to the shortest possible timeline. Our ambition is that homes built under our new planning system will not need retrofitting in the future. To work towards ensuring that all new homes are fit for a zero carbon future we will also explore options for the future of energy efficiency standards, beyond 2025'. While this statement sounds encouraging, the Future Homes Standard is not a zero carbon requirement and the references to reviewing the timescale are not clear about whether they mean shortening or extending it. Given that the Future Homes Standard consultation proposed to prevent local authorities from introducing standards in local plans, any delay would be a matter of great concern and this should be pointed out (ideally all new homes should be zero carbon from 2022).
- 11.53 **Proposal 11** aims to make design expectations more visual and predictable, expecting design guidance and codes to be prepared locally with community involvement, and to ensure that codes are more binding. The Government proposes to publish a 'National Model Design Code' in the autumn setting more detailed parameters for development on 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. The expectation is that this, along with the recent National Design Guide and a revised Manual for Streets, will be taken into account in designing new communities and development

- 11.54 Local guides and codes, which would develop the proposals that would be included in the National Design Guide, are also encouraged to ensure that schemes reflect diverse local character and what is 'provably popular' locally. These could be prepared by the local authority, local communities or applicants, provided there is community input. Where this is the case these should be followed in planning decisions, along with national guidance/codes. Question 17 asks respondents whether they agree with the proposals for design guides and codes and it is recommended that these should be broadly supported. As with many of the proposals, there is a lot of uncertainty in the White Paper, particularly the quality of the National Model Design Code. A concern is that the scope for innovation, local distinctiveness and 'quirkiness' could be lost if design simply follows a national model or what may be 'provably popular' locally, and developments may also become dated and not address the council's climate change agenda. It is unclear how local popularity would be determined and local guidance approved and whether they need to go through some sort of referendum process in which case there would be resource/timing issues for the council and other interested parties.
- 11.55 **Proposal 12** suggests setting up a body to support the delivery of provably locally-popular design codes and that each authority should have a chief officer for design and place-making. The Government indicates that it will look at a range of options for creating new expert advice, which may be a body reporting to Government, within Homes England or reinforcing existing local design centres. It suggests there that planning department resourcing will be improved and that the other changes proposed will allow some re-focussing of professional skills but no further detail is given.
- 11.56 Question 18 asks whether respondents agree there should be a new body to support design coding and building better places and that each authority should have a chief officer for design and place-making but there is no detail about how this position would be funded. It is recommended that the City Council should generally support these proposals whilst highlighting the need for adequate resources and training to deliver tangible improvements. Also, it is not clear whether the appointment of a chief officer for design in each authority would be more effective than appointing or training officers at a lower level, or whether a national body would be needed if this proposal is implemented.
- 11.57 **Proposal 13** suggests that to further embed national leadership on delivering better places the Government will consider how Homes England can give greater emphasis to delivering beautiful places. This reflects a recommendation of the 'Building Better, Building Beautiful Commission' and the Government is considering whether to go further and give greater weight

to design quality in Homes England's objectives. The City Council's experience is that Homes England already has a strong design emphasis but it is recommended that this proposal be supported in response to question 19, particularly so that Homes England can provide assistance with major growth proposals.

- 11.58 **Proposal 14** is to introduce a 'fast-track for beauty' through changes to national policy and legislation, to incentivise and accelerate high quality development which reflects local character and preferences. This involves making it clear in the NPPF that schemes which reflect local design guides/codes should have an advantage, and legislation requiring that a masterplan and site-specific code are conditions of the permission in principle which is granted in Growth areas. These masterplans and codes could be produced by the planning authority or site promoter, either alongside or following the local plan.
- 11.59 The Government also proposes to legislate to enable 'popular and replicable forms of development' to be pre-approved as permitted development, to support 'gentle intensification' of Renewal areas, in accordance with design principles. The Government wants to revive 'pattern books' to articulate standard building types, options and rules (such as heights and set-backs) as they feel this has helped deliver successful places and enables smaller development companies to enter the market. It is suggested this would achieve fast delivery of popular designs, foster innovation and support industrialisation of housebuilding, enabling modern methods of construction at scale. However, how this can be achieved in practice has not been defined.
- 11.60 The Government proposes to develop a limited set of development types for the redevelopment of existing residential buildings, enabling increased densities while maintaining visual harmony in a range of common development settings (such as semi-detached suburban development). These would be developed under permitted development rights relating to the settings in which they apply, with prior approval from the local planning authority still needed for aspects of the design and other important planning considerations such as flood risk and access. Planning authorities or neighbourhood planning groups could use local orders to modify the standard types in their areas, based on local evidence of what options are most popular. There would be a pilot project to test this concept.
- 11.61 Question 20 asks whether respondents agree with the proposals for a 'fast-track for beauty'. It is recommended that the City Council expresses concerns about this concept, particularly the use of pattern books and permitted development for standard development types. Whilst giving weight to local masterplans and codes is to be supported, along with the aim of achieving beauty, a standardisation approach may tend more towards acceptability rather than beauty and look backwards rather than forwards. There is a danger that national patterns and standardised development forms could reduce the scope for innovation, designs to respond to the impact of climate change and could be imposed on local areas unless and until they were in a

position to modify them by producing local orders (through an as yet unknown process). In response to this question, it has been suggested in order to meet the climate change agenda there should be a fast-track for carbon free development.

- 11.62 **Proposal 15** is to amend the National Planning Policy Framework to target those areas where a reformed planning system can most effectively help mitigate and adapt to climate change and maximise environmental benefits. The aim is to strengthen the way that environmental issues are considered, but with a simpler approach to assessing environmental impacts. Local plans should include local, spatially-specific policies such as in identifying important views, opportunities to improve public access, or places where renewable energy or woodland creation could be accommodated, rather than containing generic policies.
- 11.63 **Proposal 16** is to implement a simpler framework for assessing environmental impacts and enhancement opportunities, while protecting and enhancing the most valuable and important habitats and species. This would replace the current Strategic Environmental Assessment, Sustainability Appraisal, Environmental Impact Assessment, etc. No details are given at this stage and a consultation is promised in the autumn.
- 11.64 **Proposal 17** is to conserve and enhance historic buildings and areas in the 21st century. This recommits to protecting historic buildings and areas but seeks to explore how they can be made more energy efficient, for example by changes to the NPPF to allow modifications to address climate change. The Government also proposes to explore a better consent regime for routine works, including whether suitably experienced architectural specialists can have autonomy from routine listed building consents.
- 11.65 **Proposal 18** is that the Government will facilitate improvements in the energy efficiency standards for buildings to help deliver its commitment to net-zero by 2050. As discussed at paragraph 11.50 above, the Government's zero carbon target is some way behind the Council's and the Future Homes Standard is not a zero carbon requirement. The references to reviewing the timescale for the Future Homes Standard are also ambiguous. It is stated that the Government's response to the Future Homes consultation will clarify the role local authorities can play in setting energy efficiency standards for new development. The fact that a role for local authorities is mentioned at all may perhaps be a positive sign after the consultation proposals, which would have prevented local plan policies on this. There is also reference to resources being freed up for better enforcement of environmental performance and design standards.
- 11.66 Proposals 15-18 are all somewhat vague and further clarification / consultation is proposed in the autumn. No questions are posed in association with these proposals but comments are recommended in relation to other relevant questions, such as question 16.

Pillar Three – Planning for infrastructure and connected places

- 11.67 The Government feels the existing systems of securing developer contributions towards affordable housing and infrastructure, through the Community Infrastructure Levy (CIL) and s106 obligations, need to be replaced. It sees the s106 system of securing infrastructure as opaque and uncertain and notes that CIL has only been taken up by about half of local authorities. The aims of the proposed reforms to developer contributions are that they should be:
- responsive to local needs, so that the right infrastructure and affordable housing is delivered;
 - transparent, so it is clear what new infrastructure will accompany development;
 - consistent and simplified, to remove unnecessary delay and support competition;
 - buoyant, so that when prices go up the benefits are shared fairly and when prices go down there is no need to re-negotiate agreements.
- 11.68 The Government suggests its changes could also seek to capture a greater proportion of the land value uplift that occurs through the grant of planning permission, and use this to enhance infrastructure delivery. The value captured will depend on a range of factors but could be an important source of infrastructure funding, subject to balancing this against viability. The White Paper does not describe how the infrastructure will be built, or the delivery mechanism.
- 11.69 Question 21 asks respondents what is their priority for what comes with development - affordable housing, infrastructure, design of new buildings, more shops and/or employment space, or green space. It is difficult to give a single response, as different types and scales of development will require different infrastructure provision, mixes of uses and affordable housing provision. Other matters may also be important such as climate change considerations, energy efficiency, nutrient neutrality, and access to public transport, healthcare, childcare, water supply, flood mitigation, IT, etc.
- 11.70 It is recommended that the Council's response to this question therefore emphasises the need for local discretion about priorities and recognition that these may be different in different areas or for particular types of development. It is also important that infrastructure, mixed uses and affordable housing are always provided as part of the development and on-site where this is possible, as financial contributions are no substitute for providing affordable housing, improved roads, drainage, open space, etc as the development takes place. The White Paper is not clear about how on-site infrastructure which is currently secured alongside development (roads,

drainage, open space, etc) would be provided under the new system. This could be a particular issue on larger or more complex sites, especially where they are in multiple ownerships. The developers are often best placed to provide this infrastructure which needs to be delivered as the development is built out as the council is often not the commissioning authority. A system which separates the delivery of key pieces of infrastructure from the development being constructed risks a disconnect in delivery and delays in facilities coming on-stream. The proposals seem ill thought through in this section of the White Paper and more clarification is needed.

- 11.71 **Proposal 19** is that the Community Infrastructure Levy be replaced by a new Infrastructure Levy which should be charged as a fixed proportion of the development value with a mandatory nationally-set rate or rates and that the current system of planning obligations is abolished. The new 'Infrastructure Levy' would be a flat rate national charge on development value, levied on occupation of the development. There would be a value-based minimum threshold below which the levy is not charged, to prevent development becoming unviable, reflecting average build costs per square metre, with a small fixed allowance for land costs. The Levy would only be charged on the proportion of the value that exceeded the threshold, with no Levy charged if the value is below the threshold.
- 11.72 The Government suggests this would provide greater certainty for communities and developers about the level of developer contributions expected from new development. The Levy could apply across various use classes and could be used as a basis for borrowing by local authorities to forward fund infrastructure schemes but again there is a concern about the timing of delivery of infrastructure and the risks to local authorities making large commitments with uncertainty as to when developments will proceed. An alternative option might be for the Infrastructure Levy to continue to be set by individual local authorities but using a *de minimis* threshold to remove the viability risk and remove the need for multiple charging zones. Alternatively, a national rate approach could be used, but seeking to capture more development value for infrastructure. The levy cost could be capitalised into land value to ensure that the landowners who benefit from increases in value as a result of planning permission contribute to the necessary infrastructure and affordable housing.
- 11.73 Question 22 asks various sub-questions about whether the Government should replace the CIL and s106 agreements with a new Infrastructure Levy, whether this should be set nationally or locally, whether the Levy should aim to capture the same or more value to infrastructure, affordable housing, etc, and whether local authorities should be able to borrow against the future income. It is recommended that with regard to the principle of the proposed national Levy, the City Council expresses concern about whether it is practical to abolish s106 agreements in practice as they serve a very useful function in covering non-infrastructure matters, such as the phasing of development, site/off site mitigation (financial contributions from developments to ensure mitigation measures are delivered to comply with the habitats regulations for

example – nitrates and recreational impact on the Solent – Bird Aware Solent), sustainable travel plans, etc as well as infrastructure in the current system. Otherwise, a national Levy could be more straightforward but much would depend on how the Levy was set and the level of the ‘*de minimis*’ threshold.

- 11.74 While a national system could avoid duplication of work by many local authorities it is not clear how the proposed national Levy rates would take account of local land and property prices, development values, etc. Therefore it is recommended that the City Council supports the option of setting Infrastructure Levy rates locally, to be able to reflect property values in different regions. In addition to this, the value of the Infrastructure Levy should reflect market and build out rates. In order to act as an incentive to keep builders on track with delivering homes, the cost of the Infrastructure Levy could be increased if there was a slow rate of delivery on a site. This should also enable the best balance to be struck between enabling development to be financially viable whilst raising as much funding as possible to provide the affordable housing and infrastructure required. The proposed system is based on the final value of developments (rather than the current CIL system which is floorspace-based) and it is not clear how this will be measured, how complex this would be, and at what stage it would be determined (major developments could be constructed over a long period, perhaps 20 years). In this respect it is recommended that the Council supports measures to capture more development value for infrastructure/affordable housing, although this may need to be increased gradually over time to protect the economics of development.
- 11.75 It is recommended that the City Council supports the ability to borrow against future Levy income, in principle. However, the proposal that the Levy is paid by the developer on occupation of development could cause a lag between development taking place and the provision of infrastructure and affordable housing, so it won't be available for some time despite the need for it. It may also be more difficult to enforce than 'up-front' payments. It should be highlighted that this carries an element of financial risk if development rates, and therefore levy income, were to stall although a bond system could reduce this risk. Any borrowing against future income would have to be carefully considered.
- 11.76 **Proposal 20** is for the scope of the Infrastructure Levy to be extended to cover changes of use through permitted development rights, including those which do not involve an increase in floorspace. Question 23 asks whether respondents agree with this proposal and the City Council should support this. Considerable amounts of development have taken place using permitted development/prior notification processes, which places pressure on infrastructure without making any contribution. It is important that this loophole is closed.
- 11.77 **Proposal 21** is that the Infrastructure Levy should deliver affordable housing provision, unlike the current CIL system which prevents contributions being

used for this purpose. This would enable local authorities to determine priorities for spending the Levy between affordable housing and various types of infrastructure. This is aimed at securing greater overall provision of affordable housing and there would be an emphasis on on-site provision. The local authority could effectively 'buy' affordable housing by using some of the development's Levy in return for on-site provision. There is reference to this possibly 'flipping' if market conditions change and the Levy falls to an insufficient level, so as to reduce the risk to local authorities.

- 11.78 On-site affordable homes would need to be of a high quality and the authority would not be required to fund them if they weren't. An alternative option could be to create a 'first refusal' right for local authorities or registered housing landlords to buy up to a set proportion of on-site units the equivalent of build costs. This proportion would be set nationally, and the developer would have discretion over which units were involved. There would be a threshold to exclude on-site provision on smaller sites. Local authorities could use Infrastructure Levy funds, or other funds, in order to purchase affordable units.
- 11.79 Question 24 asks respondents whether they agree that at least the same amount of affordable housing should be provided under the Infrastructure Levy, and as much on-site affordable provision, whether affordable housing be secured on-site as in-kind payment towards the Levy, or as a 'right to purchase' at discounted rates for local authorities, whether if an in-kind approach is taken should this mitigate against local authority overpayment risk and whether there are any additional steps that would need to be taken to support affordable housing quality?
- 11.80 It is recommended that the City Council should strongly support the aim of securing at least as much affordable housing from the new Levy and of achieving maximum on-site provision but this should also be of the right tenure to meet local needs and should not be at the expense of other infrastructure that is required to serve the development. It is also recommended that 'in-kind' provision of affordable housing on-site is supported and that there should be mitigation against authorities having to overpay for this. 'In-kind' affordable housing would also need to be of an appropriate standard and properly integrated with market housing.
- 11.81 **Proposal 22** is that more freedom could be given to local authorities over how they spend the Infrastructure Levy, but that the current requirement for 25% to be spent in the area in which it is collected to be retained. It is suggested that the flexibility could extend to using Levy funds on other policy priorities which could include improving services or reducing Council Tax. It is suggested that there may be a need to ring-fence a proportion of funds to ensure adequate on-site affordable housing is provided.
- 11.82 Question 25 asks respondents whether local authorities should have fewer restrictions over how they spend the Infrastructure Levy and, if so, whether an affordable housing 'ring-fence' is needed? It is recommended that the City Council supports greater flexibility but not to the extent that Levy funds could

be spent on non-infrastructure/affordable housing projects. There is a danger that the integrity of the planning system could be undermined if the Levy were viewed simply as a form of local taxation that could be used for any council function. If this approach were not adopted it is recommended that there would need to be a ring-fenced proportion set aside for use by the local authority to deliver both affordable housing and essential infrastructure.

- 11.83 **Proposal 23** is that the Government will develop a comprehensive resources and skills strategy for the planning sector to support the reforms, which will include several key elements. These include that the new planning system should be principally funded by landowners and developers, as the main beneficiaries of planning gain, but with fees continuing to be set nationally and more Government control over the setting of pre-application charges. It is proposed that a 'small proportion' of the fee income should be dedicated to Local Plans, design codes and enforcement activities.
- 11.84 Local planning authorities would be subject to a new performance framework which ensures continuous improvement from Local Plans to decision-making and enforcement, including intervention if problems emerge with individual authorities. There should be a significant enhancement in digital and geospatial capability to support new digital Local Plans and decision-making but this does have significant resource implications at a time when the Council's budget is under significant pressure due to the impact of COVID-19.
- 11.85 **Proposal 24** is to strengthen enforcement powers and sanctions, with more emphasis robust enforcement action if planning rules are broken. It is suggested that planning enforcement powers and sanctions will be strengthened, including more powers to address intentional unauthorised development, higher fines, and ways of supporting enforcement activity. This will include implementing commitments from the Government's response to the consultation on unauthorised development and encampments. No questions are posed or comments invited on Proposals 23-24 but this proposal is to be welcomed, provided it is appropriately funded.
- 11.86 Finally, the White Paper considers the next steps and indicates the intention to bring forward legislation to implement the proposals, including the proposals for local plan reform, changes to developer contributions and development management. Any policy changes, including to set a new housing requirement, would be implemented by updating the NPPF to reflect the new legislation.
- 11.87 The Government wants all communities to have a say in the future of the places where they live and feels that technical jargon and traditional models of community engagement have discouraged people from getting involved. The current system is felt to encourage engagement from a narrow set of demographic groups. Question 26 asks for views on the impact of the proposals on people with protected characteristics as defined in section 149 of the Equality Act 2010. It is recommended that the City Council responds by highlighting the lack of clarity over how the housing needs of specific groups

(e.g. gypsies and travellers, the disabled, and those in care) would be catered for in the new system, given the centralised housing requirements and simplified local plan procedures. Also, people who do not find digital communications easy may be prejudiced by an over-reliance on IT based planning.

12 OTHER OPTIONS CONSIDERED AND REJECTED

- 12.1 This is a response to a government consultation on the White Paper and the content of any response is a matter for Cabinet based on its judgement. Given the scale and impact of the changes that are being put forward, a draft response has been prepared for Cabinet to decide whether it wishes to make these comments or submit alternative representations. An alternative option would be for the Council not to comment on the White Paper, but this is not recommended as it would forgo an opportunity to try to influence important proposals for change.

BACKGROUND DOCUMENTS:-

Previous Committee Reports:-

None

Other Background Documents:-

'Planning for the Future' White Paper

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/907956/Planning_for_the_Future_web_accessible_version.pdf

APPENDICES:

Appendix 1 – Recommended Winchester City Council Response to the White Paper