

**Report of Chief Planning Officer**

**Report to Development Plan Panel**

**Date: 13<sup>th</sup> October 2020**

**Subject: Planning White Paper**

Are specific electoral wards affected? If yes, name(s) of ward(s): ALL	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Has consultation been carried out?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Will the decision be open for call-in?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, access to information procedure rule number: Appendix number:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

**Summary**

1. The Planning White Paper was published on 6th August for consultation until 29th October. It has been heralded as the biggest overhaul of the planning system since it was first introduced in 1947.
2. This Report summarises proposals in the White Paper and sets out a draft response in **Appendix 1**. This includes responses to the proposals and consultation questions set by the Government but also makes a number of wider points, beyond the set consultation questions. An explanation of the White Paper proposals was provided to Members in a report to Development Plan Panel on 8<sup>th</sup> September.
3. The White Paper has wide ranging implications not only for the main planning functions of plan making and dealing with planning applications, but also for related services of transport and community infrastructure provision, design, landscape, conservation, contaminated land, regeneration, housing services, asset management and public health. To that end, consultation on the White Paper's proposals has been undertaken across a number of Council services (including Asset Management and Regeneration) recognising the role that the

planning system performs in delivering, the City Council's strategic priorities and wider public sector outcomes (where specific groups are affected). Regard has also been given to emerging responses of the Core Cities and the West Yorkshire Combined Authority.

4. The draft response has been informed by comments made by Development Plan Panel on 8<sup>th</sup> September, a meeting of Council on 16<sup>th</sup> September and by a Working Group of Development Plan Panel on 21<sup>st</sup> September.
5. It is recommended that the intentions of the White Paper to make the planning system quicker and simpler for investors and local people to use, can be broadly welcomed. As can the intent to make the system more accessible to a wide range of people.
6. The proposals involve speeding up Plan Making, with the removal of generic development management policies (to be provided nationally) and for authorities to be split into areas for “growth” areas with permission in principle, supported by masterplans and design codes, “renewal” areas with light touch rules and “protection” areas with discretionary development management. A proposal is also made for local housing requirements to be set nationally according to a new standard method that takes account of local land constraints.
7. Some of the key concerns for the Council that have been highlighted in the response, include:
  - a lack of clarity on the purpose of the planning system (including concern over the limited priority given to preventing and adapting to Climate Change)
  - whether the Council's declared Climate Emergency to aim to be zero carbon by 2030 will be impeded by the changes to the planning system
  - no measures to meaningfully change activities of a limited number of house builders, controlling the rate at which housing is delivered and trading-off the delivery of quality places against viability
  - a new system of infrastructure provision will need to enable meaningful delivery of what is needed at the right time, but there is a lack of clarity on how this will work
  - a front-loaded system with policy set nationally, will not be able to respond to the varied character of Leeds, site contexts or a rapidly changing market
  - tensions between the proposals and the democratic role of local authorities in ensuring public engagement
  - no clear role for Neighbourhood Planning
  - lack of detail on strategic planning and the roles of mayoral authorities

### **Recommendation**

8. Development Plan Panel is asked to comment on the draft responses to the White Paper as set out in **Appendix 1** in advance of it being sent to MHCLG as the Council's response to the consultation.

## 1. Purpose of this report

- 1.1 The purpose of this report is to seek the views of Development Plan Panel Members on the draft responses to the White Paper set out in **Appendix 1**. This is necessary in order to inform a Leeds City Council response to the Government's White Paper on the reform of the Planning System.

## 2. Background information

- 2.1 A report on the Planning White Paper was taken to Development Plan Panel on 8<sup>th</sup> September to give Members an understanding of the proposals in the White Paper and the implications for Leeds and to take note of Members initial comments. Members asked for a Working Group to be set up to consider the White Paper proposals in more detail. The Working Group took place on 21<sup>st</sup> October and confirmed that the key areas of concerns for Members of DPP were as follows:

- a lack of clarity on the **purpose of the planning system**
- concerns that the current means of ensuring **sustainable development** in plans and decisions is in danger of being weakened by removing sustainability appraisal and environmental impact assessment; coupled with a lack of positivity on how preventing and adapting to Climate Change, planning proactively for health and well-being and delivering inclusive growth are compatible objectives that must be delivered at the same time
- whether the Council's declared **Climate Emergency** to aim to be zero carbon by 2030 will be impeded by the changes to the planning system, including national development management policies that will follow the Government's aim to be zero carbon by 2050 and continued lack of clarity on the importance of a fabric-first approach to carbon-savings in new homes and buildings and whether local authorities will legally be able to set their own standards
- no measures to meaningfully change the **land market** or the activities of a limited number of **volume house builders**, some of which are able to control the slow rate at which housing is delivered, due to business economics and margins, trade-off the delivery of quality places against viability. A land tax is needed to promote house building with the proceeds supporting local infrastructure. There must also be stronger measures to support 3<sup>rd</sup> sector house builders including enabling them to engage in higher value sites rather than solely on previously developed land, which the volume builders generally avoid
- a new **Infrastructure Levy** needs to enable meaningful delivery of what is needed at the right time. The Government need to find ways of ensuring that marginal sites and the extra costs associated with brownfield land are being accounted for and recognise that the margins for this are very different to those in the south-east. This is imperative in order to make sure the aspirations for the protection of the Green Belt and sustainable development in the north of England remain achievable and viable. The extension of the levy to permitted development is welcomed.

- a **front-loaded system** with much policy set nationally, will not be capable of responding to the varied character of Leeds, different site contexts and a rapidly changing market e.g. the approach to affordable housing<sup>1</sup> runs counter to the evidenced needs for low cost housing in Leeds
- tensions between the proposals and the **democratic role of local authorities** in ensuring public engagement with much detail still to be clarified. If the process is to be front-loaded then the expectations set at the start of the process, where the engagement happens, must be delivered on at the end when the development happens. To do otherwise would lead to a lack of trust and levels of objection that the new system has no clear way of dealing with.
- the proposals to **digitise planning** are welcomed but it is stressed that this can't be the only option as access to IT is not universal, the necessary financial resources will also need to be made available to local planning authorities to put such infrastructure in place.
- lack of detail on **strategic planning** which is recognised as important for a number of issues including: housing markets, road traffic impacts, school places and locations for carbon capture that cross LA boundaries. There is a need to clarify the roles of mayoral authorities, with some concern that if upper tier authorities take too big a slice of the infrastructure levy or public funding for strategic infrastructure there will be nothing left for local communities.

2.2 As the White Paper has wide ranging implications not only for the main planning functions of plan making and dealing with planning applications, but also for related services of design, landscape, conservation, contaminated land, regeneration, housing services, asset management and public health, discussion group sessions have been held at an officer level to ensure that wider implications and comments are captured. Within this opinion has specifically been sought from the Leeds Older People's Reference Group and the Leeds Gypsy and Traveller Exchange. Regard has also been given to emerging responses of the Core Cities and the West Yorkshire Combined Authority.

2.3 This Report summarises proposals in the White Paper and sets out a draft response in **Appendix 1**. This includes responses to the proposals and consultation questions set by the Government but also makes a number of wider points. A fuller explanation of the White Paper proposals is provided in the recent report to Development Plan Panel on 8<sup>th</sup> September.

#### Wider Government Consultations related to Planning

2.4 The White Paper comes on the back of recent Government changes, which are set out below to avoid confusion.

2.5 Changes to Permitted Development rights and the Use Classes Order came into force on 1<sup>st</sup> September. These are designed to speed up development via

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<sup>1</sup> This is set out in detail in the response to the Government's "Changes to the Planning System" consider at Agenda Item **xx**

changes of use and free-up the planning system by reducing the need for planning permission for certain types of development. An explanatory note on these changes has been circulated to members of the Plans Panel.

- 2.6 A consultation on changes to the existing Planning System was also launched in August concerning technical matters. These related to: the Standard Method of calculating local housing requirements, the introduction of First Homes as a type of affordable housing, support for SME developers and widening the scope of Permission in Principle to include major development. The deadline for comments on this passed on 1<sup>st</sup> October and a report for information is at Agenda Item xx to this meeting.
- 2.7 A live consultation seeks opinion on options for making provision of accessible standard dwellings a national requirement through amendments to the Building Regulations. This consultation period for this runs until 1<sup>st</sup> December.

### **3. Main issues**

- 3.1 The White Paper “Planning for the Future” was published on 6<sup>th</sup> August 2020 for consultation until 29<sup>th</sup> October 2020.
- 3.2 The White Paper sets out numbered proposals with explanatory text and a set of numbered consultation questions. It splits into three topic areas (referred to as Pillars):
- Planning for Development
  - Beautiful and Sustainable Places
  - Infrastructure and Connected Place

There is also a final section “Delivering Change” with suggestions on funding local authority planning services and non-compliance / enforcement. These topics do not have consultation questions.

#### **3.3 Pillar 1: Planning for Development**

- 3.3.1 In summary, this pillar puts forward proposals to front-load decision making toward plan making and design codes, and away from planning applications. Local Plans will be expected to designate all areas under three simplified designations: Growth, Renewal and Protection, although there is reference to sub-zones being used. Designation of areas for “growth” will mean permission is automatically granted in principle. Designation for “renewal” is intended for existing built-up areas where “gentle densification” may be possible and where a “presumption in favour of development” would apply. Protection areas would cover green belt, conservation areas and other areas in need of protection.
- 3.3.2 There will be a national set of generic development control policies established so that Local Plans can concentrate on spatial designations and issues of local distinctiveness. Greater digitalisation and national standardisation of processes will be introduced to make decision making quicker and streamlined. Local Plan preparation will be shortened to 30 months with simplified processes to replace Sustainability Appraisal and Environmental Impact Assessment. Duty to Cooperate will be abolished. The tests of soundness will be replaced with a simple sustainable development test. Plans should be more visual with

less text to be more accessible to the public, but formal public consultation will be limited to an initial gathering of suggestions and only seeking comments on the draft plan once at the point it is submitted for examination.

3.3.3 In terms of implications for Leeds the proposals raise lots of questions about the detail of application that are not yet clear. Given the complex character of Leeds, particularly the City Centre, it is envisaged that either there will need to be a complex patchwork of growth, renewal and protection areas or that if larger areas are designated there would need to be detailed policy to cover the varied circumstances of development within. Either way, the apparent simplicity of the 3 designations belies the underlying complexity of land that needs to be planned. Where growth and renewal areas are designated, there will be less opportunity for public and Member involvement when site development proposals are drawn up because the decisions on use, scale, location will have been taken earlier on in during plan making. The proposed LCC response suggests that the new system should have flexibility to respond to unforeseen circumstances, for example new development opportunities. But where a developer may wish to develop differently to the specific requirements of a plan, this should be subject to local authority approval and public consultation. The response also highlights the importance of strategy and place-making. Some examples are also given of where local policy implications need to be considered in the proposal for a national set of generic development management policies.

3.3.4 Some of the broad intentions of the White Paper to speed up the system and make it more visual and accessible to the public are to be welcomed. But the exact detail is not yet clear. The LCC response makes clear that these measures should not be at the expense of people in the community who are less IT literate. The White Paper also offers little detail on the role of Neighbourhood Plans in the new system. The LCC response suggests that there is potential for neighbourhood planning to have an integral role in local plans including designating of areas for growth, renewal and protection and drawing up locally specific policies and design codes that would apply. Extra resources for upskilling would be needed.

3.3.5 The Council's response captures the comments of Members of Development Plan Panel at para 2.1 above and suggests a number of measures of support, incentive and penalty to improve delivery.

3.3.6 **Appendix 1** sets out further responses on replacing and simplifying some of the processes and tests for plan making. In particular, the White Paper lacks detail on what would replace the Duty to Cooperate to deal with strategic planning matters such as balance of growth, travel, infrastructure and locations for carbon capture. The LCC response to the idea of nationally set housing requirements based on a formula that accounts for land constraints notes the benefit of reducing protracted debate on housing numbers, but stresses that local authorities need to have input because a standard formula can never fully account for all local circumstances.

### 3.4 Pillar 2: Beautiful and Sustainable Places

3.4.1 In summary, this pillar provides more detail on how design codes can be used to set out the parameters for development and makes proposals that each local

authority should appoint a chief officer to promote good design and for the establishment of a national expert body on good design. There is discussion about protecting natural and historic environments and promoting the energy efficiency of buildings, but little in the way of new proposals.

3.4.2 Regarding implications for Leeds and the LCC response, the proposal for design codes is welcome but they need to be agreed with the support and involvement of local people. To ensure responsiveness to changing conditions, there must be facility for development to depart from code requirements, but only by planning application with public consultation. National support to promote good design is welcomed, but it needs to be staffed with people from the regions, not just London, and with an ethos to be helpful and supportive rather than dictate.

3.4.3 The proposals for the natural and historic environment and for energy efficiency are disappointing. References are made to previous and future consultations with few definitive proposals. The Council's response captures the comments of Members of Development Plan Panel at para 2.1 and it suggests that Government is not being ambitious enough in adopting a 2050 zero carbon target, and proposals should allow local authorities like Leeds to pursue locally specific measures necessary to meet zero carbon by 2030.

### 3.5 Pillar 3: Planning for Infrastructure and Connected Places

3.5.1 In summary, the current system of s106 and Community Infrastructure Levy (CIL) is seen as opaque with reliance on negotiation causing delay and uncertainty, especially for smaller developers. Instead it proposes a reformed infrastructure levy set nationally based on development value.

3.5.2 The reformed levy would have the following features:

- Flat-rate charge,
- Set nationally at either a single rate or area-specific rates.
- Applies across all use classes, including Permitted Development
- Charged on the final value of development
- Levied at the point of occupation
- Applies at a value-based minimum threshold to prevent low viability development becoming unviable – reflecting average build costs per sqm, with a small fixed allowance for land costs.
- Local authorities can borrow against future levy revenues to forward fund infrastructure.

3.5.3 The new levy is expected to be capable of delivering on-site affordable housing through “in-kind” delivery. In other words, the cost of a developer building affordable dwellings would be deducted from the final levy bill. Alternatively, levy funding could be used toward off-site affordable housing.

3.5.4 The White Paper says that the share of levy proceeds for neighbourhood groups will be retained but considers wider freedoms for local authorities to spend money raised by the new levy.

3.5.5 The Council's response captures the comments of Members of Development Plan Panel at para 2.1. In terms of implications a number of concerns are

raised. It is considered that the levy needs to be set as *area specific* rates; otherwise there is a danger that northern authorities will lose out due to lower values. There is also a question of the effects on sites of marginal viability; how to avoid the levy being a disincentive to redevelopment of marginal sites (including brownfield sites) if there is no scope for flexibility or negotiation? The proposals for in-kind provision of affordable housing are welcome, but the needs of wider strategic infrastructure such as school provision are also important, especially in relation to growth in the Site Allocations Plan. Competing interests for infrastructure provision in the context of a large infrastructure gap create pressure in terms of local priorities, a role for S106 is needed for non-financial requirements. In terms of the sustainable infrastructure needs of local areas for specific S106 contributions/CIL the detail relating to how this will be implemented is vital to understand how the Levy will work.

- 3.5.6 Making the levy applicable to all uses including Permitted Development is welcome as it should be capable of raising more funds. Giving local authorities more freedom on how levy proceeds is spent is welcome, but communities will be concerned if the link between development and local infrastructure is broken.

### 3.6 Delivering Change

- 3.6.1 The White Paper suggests that most funding of the planning system should come from the beneficiaries of development rather than the taxpayer, but some local planning activities should be funded through general taxation given the public benefits of good planning. Funding for transition to the new planning system will be made available. But local authorities will be subject to a performance framework to ensure continuous improvement.
- 3.6.2 It is considered that the planning function of local authorities works in the interests of both developers and communities and therefore ought to be funded by both applicants and taxpayer.
- 3.6.3 The White Paper also proposes to strengthen enforcement powers and sanctions. More powers and higher fines will be considered, including for unauthorised development and encampments.
- 3.6.4 Enforcement is a critical part of the planning system, with the challenge that the imperative to investigate complaints and to take action against identified breaches, out strip the resources available. The proposals will have limited benefit. Public funding is necessary to better support enforcement services.

### 3.7 **Consultation and engagement**

- 3.7.1 The consultation on the White Paper runs until 29<sup>th</sup> October. The consultation is structured around 26 consultation questions. If an on-line response is made, it is only possible to respond to the questions which are mainly “do you agree with our proposal for .... Yes, No, Not Sure” and a space is normally provided for a supporting statement. There is an email address for other comments to be sent.
- 3.7.2 The Council has sought to canvass views from the different planning services and from related services by holding a number of discussion meetings on

Skype. Input has also been received from the Leeds Older People's Reference Group.

3.7.3 Regard has also been given to draft responses from a number of other organisations such as the Core Cities, Planning Officers Society and the West Yorkshire Combined Authority.

3.7.4 Members provided initial input at the 8<sup>th</sup> September Development Plan Panel meeting and further input at a Working Group meeting on 21<sup>st</sup> September. The proposed response has been shared with all party leaders to seek to make this a cross-party response.

### **3.8 Equality and diversity / cohesion and integration**

3.8.1 An EDCI is not required for this report as no policy change is proposed. However, the White Paper consultation includes a question about impacts on people with protected characteristics as defined in section 149 of the Equality Act 2010 to which the Council is making a response (see Appendix 1, Q26).

### **3.9 Council policies and the Best Council Plan**

3.9.1 There is a clear role for planning in delivering against all of the Council's priorities as established through the Best Council Plan, particularly the Council's key strategies, as follows:

Health and Well-being Strategy – through policies including the design of places, quality of housing and accessibility and the integration of public health infrastructure

Climate Emergency – managing the transition to zero carbon via policies including: the design of places, the location of development, accessibility to public transport, use of brownfield land, energy, supply, generation and the efficiency of buildings

Inclusive Growth Strategy – through policies including the links between homes and jobs, planning for the land use and infrastructure needs of key economic sectors, the location of development, green infrastructure and connectivity

3.9.2 The Council's response refers to all of these Council policies, mainly in calling for a more joined-up and holistic planning system which strives to deliver better places and in turn address health and well-being, the climate emergency and inclusive economic growth. The response also specifically notes the concerns that that Council has that the White Paper will impede the ability of the Council to achieve net zero carbon by 2030 and that the Government should be more strongly setting out the role that planning can play in this. It is also noted that the Planning White Paper is overly focussed on housing delivery at the expense of other built development e.g. economic development for inclusive growth.

### **3.10 Resources, procurement and value for money**

3.10.1 There are no specific implications to this report.

### **3.11 Legal implications, access to information, and call-in**

3.11.1 There are no legal implications arising from the recommendations in this report.

### **3.12 Risk management**

3.12.1 No issues of risk are identified with responding to the Planning White Paper.

## **4. Conclusions**

4.1 The proposals of the Planning White Paper seek to radically alter the planning system particularly around plan making and creating a quicker and simpler system in Pillar 1. It talks of beautiful design in Pillar 2, but actual proposals are limited including unambitious proposals for zero carbon development by 2050. The proposal for a consolidated infrastructure levy in Pillar 3 is ambitious, but raises questions about its ability to reflect marginality of brownfield sites and to delivery infrastructure, particularly what is needed locally to sites.

4.2 The Council's proposed response is thorough, based on widespread canvassing of opinion including cross party political input. In this way it is expected that the Council's response will be seriously considered by Government. The response is broadly constructive in seeking to point out likely implications and impediments, and make positive suggestions about how the proposals could best work in practice. The Council and its officers would be happy to follow up on these comments with Government to ensure that the role of Planning is to leave a positive legacy in delivering the principles of sustainable development for communities, now and in the future.

## **5. Recommendations**

5.1 Development Plan Panel is asked to comment on the draft responses to the White Paper as set out in Appendix 1.

