



**REPORT OF: THE DIRECTOR OF GROWTH & DEVELOPMENT**

**TO: PLANNING AND HIGHWAYS COMMITTEE**

**ON: 15<sup>th</sup> OCTOBER 2020**

**ORIGINATING SECTION: PLANNING STRATEGY/ DEVELOPMENT MANAGEMENT**

**WARDS AFFECTED: ALL**

**COUNCILLORS: ALL**

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**TITLE OF REPORT:**

**PLANNING WHITE PAPER “PLANNING FOR THE FUTURE” – SUMMARY OF THE ISSUES AND BLACKBURN WITH DARWEN BOROUGH COUNCIL’S RESPONSE TO THE MINISTRY OF HOUSING, COMMUNITIES & LOCAL GOVERNMENT CONSULTATION – PLANNING FOR THE FUTURE – WHITE PAPER, AUGUST 2020**

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**1. PURPOSE OF THE REPORT**

- 1.1 To inform Members of the main changes proposed with the White Paper, and the Council’s response and views on the Government’ proposals to overhaul the planning system.
- 1.2 To agree the responses to the questions set in the Consultation paper, and that the responses should form the formal views of the Council.

**2. BACKGROUND**

- 2.1 On the 6<sup>th</sup> August 2020, the Government published the White Paper “Planning For the Future”, which sets out a wide-ranging package of proposals to reform the planning system. The Government states that the consultation seeks the views on each part of a package of proposals for reform of the planning system in England, to streamline and modernise the planning process, improve outcomes on design and sustainability, reform developer contributions, and ensure more land is available for development where it is needed.
- 2.2 The Government’s White Paper proposes a radical and ambitious overhaul of the English planning system, intended to streamline the planning process. It sets out key principles for a new system, which is likely to involve new primary legislation. Key areas of change are focussed on the following:

<b>Plan Making</b>	Dramatic simplification of the process (fewer stages, less evidence, zoning, single test of sustainable development, shorter standardised documents with less 'policies'/rules)
<b>Development Management</b>	Fundamental change to focus on the application of rules instead of professional judgment on policies and reduced regulation once sites classified as zones in local plans
<b>Community Engagement</b>	Greater focus on wider, more digitally driven community engagement early in the process
<b>Design</b>	Huge focus on locally prepared design codes and masterplans
<b>Digital</b>	Complete restructure of the digital infrastructure of the planning system, including not only how information is provided and shared, but also the role for mapping and community engagement.
<b>Stricter Timeframes</b>	Local Plans must be prepared in 30 or 42 months from the introduction of the legislation and emphasis on the 8 and 13 weeks for planning decisions as "firm" deadlines.

- 2.3 The consultation runs for 12 weeks, and closes on Thursday 29th October 2020. This report provides an overview of the proposals set out in the White Paper, and the proposed responses to the main questions set around the proposal.
- 2.4 There are 22 specific proposals set in three areas, which are known as "Pillars", with a series of questions relating to the proposal. This report will focus on the main questions.

### 3. RATIONALE

- 3.1 The Government are suggesting that the current system is inefficient, with supporting arguments stating:
- The system is too complex.
  - Planning decisions are discretionary rather than rules based.
  - It takes too long to adopt a Local Plan.
  - Assessments of housing need, viability, and environmental impacts are too complex.
  - It has lost public trust.
  - It is based on 20<sup>th</sup> Century technology.
  - The process for negotiating developer contributions to affordable housing and infrastructure is complex, protracted, and unclear.
  - There is not enough focus on design.
  - Not enough homes are being built.
- 3.2 The new changes proposed are designed to improve the system, to improve local communities, and make the system more transparent, user friendly, whilst at the same time, supporting developers and businesses, and increase the supply of land available for new homes where it is needed.
- 3.3 The consultation is focussed around three areas: **Pillar One – "Planning For Development"**; **Pillar Two – "Planning for beautiful and sustainable places"**, and **Pillar Three – "Planning for Infrastructure and connected places"**. These can be summarised as follows:

## Pillar 1 Planning for Development

### Development Management and Enforcement

#### National Development Management Policies

Development management policies will be set nationally and the National Planning Policy Framework will become the primary source of policies for DM. Consultation asks for views on the future of optional technical standards. Fees will also be set on a national basis.

#### Decision Making

With the focus on a plan-led system, changes to DM processes will be dependent on up to date Plans setting out zones and accompanied by design codes. Decision making will be delegated to officers and subject to checking compliance with rules (potentially verifying automated machine-response). Design codes should provide clear standards that also reduce the need for significant supplementary information. Failure to comply with statutory time limits will incur a penalty, which could involve automatic refund of the fee.

#### Streamlining and Digitised Process

Greater use of digital technology will include standardised processes where validation will be integrated with submission, simplified application forms, publicly accessible systems (incl. consultees) and more consistent planning conditions. Aim to have DM policies and code requirements written in machine readable format to use automated screening where possible. Fast-tracking of various applications, 'beautiful design' and community facilities or infrastructure proposals.

#### Enforcement

There is an emphasis on strengthening enforcement powers and sanctions, with consideration of higher fines and exploring ways to support more enforcement activity.

## Pillar 2 Planning for Beautiful and Sustainable Places

#### Focus on Design

Following on from the National Design Guide published last year, there is a clear message that design standards should form a core part of the planning process. Design expectations should be more visual and predictable, preparing design codes locally and with community involvement to reflect local character.

#### Fast-track Beauty

Proposals that comply with pre-established principles of 'good design' will be accelerated through the planning process as an incentive to promote high quality development that reflects local character and preference. The NPPF will be updated to support this proposal whilst permitted development will be extended to enable popular and replicable forms of development to be approved quicker. There will also be opportunity within Growth Areas to prepare masterplans at Plan making stage that will expediate full approval.

#### Simplifying Environmental Impact Assessment

There is an intention to design a quicker, simpler framework for assessing environmental impact and enhance opportunities to speed up the process. SEA, SA and EIA can lead to duplication of effort and delays in the process – further consultation will take place in the autumn.

#### Historic Buildings and Energy Efficiency

Whilst continuing to improve energy efficiency standards in buildings to help deliver commitment to net-zero by 2050, there is also a focus on conserving and enhancing historic buildings to have the right energy efficiency measures. The planning system should provide a framework that can provide timely and effective decisions for sympathetic proposals to modernise properties.

## Pillar 3 Planning for Infrastructure and Connected Places

### Infrastructure Levy

#### Reform of CIL

The Community Infrastructure Levy (CIL) will be replaced by a new Infrastructure Levy that will be set at national level as a value-based flat rate charge (single or varied rate could be set). The aim is to raise revenue and remove time spent negotiating S106.

#### Extended scope

The scope of the Infrastructure Levy would be extended to capture changes of use through permitted development rights; however, exemptions will remain for self and custom-build development. The reformed levy will also deliver affordable housing provision, secured through in-kind delivery on site which would provide incentive for the developer to build on-site affordable housing.

#### Local Authority Spending

More freedom could be given to local authorities over how they spend the Infrastructure Levy, including spending receipts on policy priorities once core infrastructure obligations have been met.

## Implementation and Delivery

<b>Transitional Arrangements</b>	Little information given but to be brought forward as the new system is implemented – would expect some details after consultation period
<b>Short Term Measures</b>	Additional consultation on standard housing method, First Homes, small site threshold for affordable housing and extension of permission in principle.
<b>Change to Use Class Orders</b>	A number of changes to Use Classes have already been implemented with associated permitted development
<b>Skills &amp; Resourcing</b>	A resources and skills strategy will be developed by Government to support the implementation of the reforms, which will be developed alongside the final proposals

The following section will now focus on each proposal and the questions around the proposal.

## 4. KEY ISSUES

- 4.1 The Consultation format is set with a series of questions around the proposed changes. The questions in the consultation are listed below in sections, together with the rationale behind each question, and the proposed response from the Council.

### Pillar One – Planning for Development:

Wants to retain a Local Plan based system, but greatly simplified and enhanced. *Local Plans should be focused on where they can add real value: allocating enough land for development in the right places, giving certainty about what can be developed on that land, making the process for getting permission for*

*development as simple as possible, and providing local communities a genuine opportunity to shape those decisions.*

**Proposal 1: The role of land use plans should be simplified to identify 3 types of land**

Growth areas – suitable for ‘substantial development’ (term to be defined in policy to remove debate). Will include urban extensions and areas for redevelopment such as former industrial or regeneration areas. Sites annotated as such in the plan would have *outline planning permission granted automatically* for forms and types of development specified in the Plan. Flood risk areas to be excluded (unless full mitigation possible). Sub-areas to be allowed e.g. for self and custom-build homes:

Renewal areas – ‘suitable for development’ where smaller scale development is appropriate. e.g. gentle densification, infill of residential areas, development in town centres, and development in rural areas not annotated as Growth or Protected areas. A statutory presumption in favour of development would apply.

Protected areas – development is restricted where particular environmental and/or cultural characteristics require more stringent controls to ensure sustainability. E.g. Green Belt, Countryside Area, Conservation Areas, Local Wildlife Sites, areas of significant flood risk and important areas of green space.

Question	Proposed BwD Council Response
5. Do you agree that Local Plans should be simplified in line with our proposals?	Yes. The Council agrees with the principle of simplifying the Local Plan system, which is cumbersome, over complicated and slows down development and growth in the Borough. However, further details around the practical implications of the proposed approach for Local Authorities in identifying zones and sub-categories within zones would be required. In addition, an element of discretionary planning and professional judgement should still be a part of any future planning system on the decision making side.

**Proposal 2: Development Management policies established at the national scale and not in Local Plans**

Local Plans to set clear rules rather than general policies for development. Development Management policies in a Local Plan are to be restricted to be clear and necessary relating to site or area-specific requirements only (e.g. broad height limits, scale and/or density limits etc.). There is no provision for generic Development Management policies in the plan. They are expected to be at most 1/3rd of current length and mainly map based – it appears that it will just be a core set of standards and requirements for development with site parameters set out for each area.

Question	Proposed BwD Council Response
6. Do you agree with our proposals for streamlining the development management content of Local Plans, and	Yes. The Council believes that from a policy perspective the principle of setting development management policies nationally is sensible when viewed alongside the proposed zonal system and accompanying design codes. This would save considerable time for local authorities in

setting out general development management policies nationally?	preparing their Local Plans. Development Management policies must however be prepared with adequate consultation to ensure that they are flexible enough to cater for the full range of issues around different regions of the country.
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**Proposal 3: Local Plan should be subject to a single statutory ‘sustainable development’ test, replacing existing tests of soundness**

The Government plan to abolish the Sustainability Appraisal system and develop a simplified process for assessing environmental impact. The Duty to Cooperate test will also be removed (though further thought required around strategic cross-boundary working is required, particularly where infrastructure is needed). A slimmed down deliverability test will also be included e.g. to ensure that key infrastructure required for sites will come forward during the plan.

Question	Proposed BwD Council Response
7(a) Do you agree with our proposals to replace existing legal and policy tests for Local Plans with a consolidated test of ‘sustainable development’, which would include consideration of environmental impact?	The Council would in principle support a simplified consolidated test to improve the examination process of Local Plans. However, any definition for the purposes of a consolidated soundness test would need to be very clear to avoid ambiguity. When the NPPF was published, it failed to provide a short, clear definition of sustainable development. Whilst the NPPF does provide a high level objective (paragraph 7) the entire document is seen to be the wider definition of sustainable development. Any definition must be clear on stating that the aim is to achieve net gains in social, environmental and economic factors (as per paragraph 8 of the present NPPF) and should incorporate assessment of the carbon impacts of development.
7(b) How could strategic, cross-boundary issues be best planned for in the absence of a formal Duty to Cooperate?	This needs careful consideration between authorities particularly in relation to strategic growth objectives, and infrastructure which will be required to deliver the growth. A regional approach should be looked at together with the Devolution and Local Government reorganisation proposals in the forthcoming White Paper.

**Proposal 4: A new nationally-determined, binding housing requirement to be set for each area**

This is focused on areas where affordability pressures are highest to stop supply being a barrier to homes being built. This will be consistent with the Government’s aspirations for 300,000 homes annually, and would factor in: size of existing settlements; relative affordability; extent of land constraints (e.g. Green Belt, SSSI, National Parks); opportunities to better use existing brownfield land; the need to make an allowance for land required for other development; and inclusion of an appropriate buffer to account for drop off rate and offering sufficient choice to the market. There are no proposed changes to Green Belt policy. In addition, there is no further need to demonstrate a 5 year housing land

supply, however the Housing Delivery Test and presumption in favour of sustainable development proposed to remain.

Question	Proposed BwD Council Response
Q8(a): Do you agree that a standard method for establishing housing requirements (that takes into account constraints) should be introduced?	Yes. Local Authorities should however have the opportunity to exceed the housing need figure for an area that is derived from the standard method if it has ambitions for growth that exceed the binding figure. The figure should therefore be a minimum not a cap.

### **Proposal 5: A streamlined Development Management process with automatic Planning Permission for schemes in line with plans**

Emphasis to be strengthened in legislation on the plan-led approach, however as an exception, proposals different to the plan could still come forward and would require a specific planning application. Proposed process for each designation:

*Growth areas* - Outline Planning Permission granted through the Local Plan, therefore detailed Planning Permission to be secured in one of 3 ways: (i) reformed Reserved Matters process; (ii) a Local Development Order (LDO) prepared by the local planning authority in parallel with the Local Plan (linked to a Masterplan and design code); (iii) or for exceptionally large applications e.g a new town, settlement expansion a Development Consent Order (DCO) under the Nationally Significant Infrastructure Programme (NSIP) regime.

*Renewal areas* - a presumption in favour would exist therefore consent again in one of 3 ways: (i) through a new permission route for pre-specified forms of development that meet design and prior approval requirements; (ii) a faster application process using the Local Plan and NPPF; (iii) or a Local or Neighbourhood Development Order.

*Protected Area* – as now through planning applications and judged against the NPPF.

Question	Proposed BwD Council Response
Q9(a): Do you agree that there should be automatic outline permission for areas for substantial development (Growth Areas) with faster routes for detailed consent?	It will speed up the process, but will require totally radical new approaches on how the local planning authority engage with the local community. This is such a drastic change, and will require further resource for strategic planning to deal with the zoning system. It will require a different approach in terms of community engagement as in effect the democratic process of allowing the community a say on proposals will be front loaded at the local plan stage, without them having any further comments at the planning application stage. This will be a totally new concept for the resident, who are used to the current system in terms of engagement. The approval of new development in growth zones will shift to the plan-making stage. The traditional process of politicians deciding planning applications with opportunities for the public to make representations is effectively at an end with this new proposal. The White Paper does not provide a single new right for community participation or a single new opportunity for a democratic

	moment in the plan-making process but rather reduces both rights and opportunities to participate. It does run the risk of the community being left behind if the engagement strategy is not thought out properly, and the “trust” of the system, which is a key point the government wish to address will be lost.
Q9(b): Do you agree with our proposals above for the consent arrangements for Renewal and Protected areas?	Yes
Q9(c): Do you think there is a case for allowing new settlements to be brought forward under the NSIP regime?	No comment

**Proposal 6: Faster and more certain decision making with firm deadlines and greater use of technology**

Use software to help automate routine processes. The Government will prepare a ‘*specific, investable proposal for modernising planning systems in local government*’ for the Spending Review. The Government are proposing to work with technical companies and local authorities to modernise the software used for case management. In addition, shorter and more standardised applications are proposed, a national data standard for smaller applications, and beyond drawings and plans, there will be one key standardised planning statement (of no more than 50 pages) to justify the development in relation to the Local Plan and NPPF. There is also a proposal to automatically refund application fees if not determined within statutory time limits (or if successful at appeal).

Question	Proposed BwD Council Response
Q10: Do you agree with our proposals to make decision-making faster and more certain?	At this stage the answer is no, it is not clear from the Paper how this national standardised system will work, taking into account local circumstances. The White Paper places a strong emphasis on how new technology can be used in the planning process. This could be a welcome development if it makes data easier to access and plans easier to understand and engage with. The current pandemic has shown that technology is now becoming a driving force in the way people work and communicate. Making processes more accessible is welcome, but technology on its own does not make the planning process more democratic and we need to make sure we are not excluding those who are less technologically able. Are there financial incentives to support the proposal to use digital tools and platforms? Significant investment will be required to improve community engagement processes. In terms of automatically refunding fees where the statutory time period is not met, what if the applicant wants to work with the LPA to ensure their scheme is acceptable, and is agreeable to an extension of time? Surely, it is better to do this, as otherwise, LPAs will be determining applications without any negotiation, thereby increasing the workload, as applications will be resubmitted with no further fee. There has to be some degree of flexibility. Furthermore, we do not see the benefit of the planning application fee being refunded if the appeal is allowed. There is a process in place whereby the appellant can apply for costs where a LPA

	has acted unreasonably. This should be enough, as appeals can prove costly and resource intensive to already depleted planning services.
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**Proposal 7: Local Plans to be supported by a standard template and should be visual and map-based**

An Interactive web-based map would provide accompanying text setting suitable development uses in the Growth and Renewal areas (this could be specific for each sub-area within each category). The Government will publish a guide of data standards and digital principles alongside expectations around more limited evidence expected to support plans accompanied by a model template ‘*well in advance of the legislation being brought into force*’. Local Plans should be fully digitised and web-based following agreed web standards.

Question	Proposed BwD Council Response
Q11: Do you agree with our proposals for accessible, web-based Local Plans?	Yes

**Proposal 8: Local Plans to be produced in no more than 2 ½ years in total**

Range of intervention options proposed. Expectation is that many local planning authorities could do this in a shorter time. Still the expectation to review at least every 5 years. It is proposed that a fixed 30 month preparation period with clear engagement points:

- o Stage 1 (6 months) – ‘calls for sites’ suggestions for areas in the 3 categories
- o Stage 2 (12 months) – Local Plan drawn up, including producing any necessary evidence to inform and justify the plan
- o Stage 3 (6 weeks) – LPA submits the Plan to Secretary of State with a Statement of Reasons why it is as it is and simultaneously publicises for public comment
- o Stage 4 (9 months) – planning inspector considers whether the three categories meet the ‘sustainable’ test and makes binding changes. Right to be heard at the inspector’s discretion
- o Stage 5 (6 weeks) – Local Plan map, key and text are finalised and come into force

Question	Proposed BwD Council Response
Q12: Do you agree with our proposals for a 30 month statutory timescale for the production of Local Plans?	Not sure. The Council agrees with the principle although no detail is provided to respond in detail to the practicalities of implementing each stage and therefore to understand how realistic the proposals are. From the limited information available there do seem to be some problematic areas. For example, the aim is to ‘ <i>give neighbourhoods and communities an earlier and more meaningful voice</i> ’, but the first opportunity to see or comment on anything meaningful will be the point at which a plan is submitted to the Secretary of State at which

	<p>point it is out of the Local Authorities hands as to making changes. There are also significant concerns around transitioning between the current system and the new. Some flexibility in the timescales must be built in for the first time that Local Authorities are required to produce a new style plan (currently only 12mths proposed if a Local Authority has already submitted under the existing system). The expectation is that Development Management staff would help contribute to local design code work but this would not be possible whilst still decision making under the current system.</p>
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**Proposal 9: Neighbourhood Plans to be retained**

Content to be focused around reform proposals and better use of digital tools. Interested to explore idea of very small areas (individual street) setting own rules for the form of development which they are happy to see.

Question	Proposed BwD Council Response
Q13(a): Do you agree that Neighbourhood Plans should be retained in the reformed planning system?	No. If key concepts of the White Paper are to enhance community engagement and to simplify and speed up the planning process, then Neighbourhood Plans seem inconsistent with these aims.
Q13(b): How can the neighbourhood planning process be developed to meet our objectives, such as in the use of digital tools and reflecting community preferences about design?	No comment

**Proposal 10: A stronger emphasis on build out through planning to speed up construction**

Substantial sized development should have a variety of different builders to allow phases to come forward together. Further options to be explored to support faster build out.

Question	Proposed BwD Council Response
Q14: Do you agree there should be a stronger emphasis on the build out of developments? And if so, what further measures would you support?	Yes. However, there is an elephant in the room. The market alone has never developed this volume of homes and why would it? The fewer homes that are built leads to a further lack of supply which in turn leads to further increases in property values and therefore higher profits for house builders. The only historical precedents of 300,000+ homes per year have been during times of very significant public sector house-building to complement the private sector. Further measures to bolster public sector house building, not just measures to assist small and medium sized builders, are therefore key to improving build out rates and giving the Government any chance of reaching its national targets.

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

The new system must enable the creation of beautiful places that will stand the test of time, protect and enhance our precious environment, and our efforts to combat climate change.

Recommendations from the Building Better, Building Beautiful Commission final report (Living with Beauty, January 2020) will be integrated. The Government's National Design Guide (published October 2019) will be developed into a National Model Design Code to be published in autumn 2020 alongside a revised and consolidated Manual for Streets.

### **Proposal 11: Expect design guidance and codes to be prepared locally**

The proposal is to be based on genuine community involvement – otherwise weight will not be applied in Development Management. It is aimed to provide certainty and reflect local character and preferences about the form and appearance of development. It could be prepared for a whole local authority area, or for smaller areas or sites. Design guides ideally produced 'twin track' with the Local Plan, for inclusion within it or as Supplementary Planning Documents. More clarity and information is needed on the National Design Guide, National Model Design Code and Manual for Streets to guide decisions.

<b>Question</b>	<b>Proposed BwD Council Response</b>
Q17: Do you agree with our proposals for improving the production and use of design guides and codes?	Not sure. It is not clear in the White Paper how consultation with the public on design codes would fit in with the proposed Local Plan consultation process. Stage 1 of the Local Plan process is defining the zones, so design code consultation could not take place at this stage. The only subsequent Local Plan consultation stage is at the point of submission of a plan. If design codes are to be produced alongside Local Plans, and with genuine public involvement then additional consultation will be required. The potential volume of work in producing local design codes for different zones and areas is very significant. This could only be supported subject to adequate assistance for Local Authorities in resourcing the proposals.

### **Proposal 12: New body to support delivery of design codes and a Chief Officer for design in every Local Authority**

Options for establishing new body to be explored – maybe central government arms-length body, new centre of expertise within Homes England, or improve existing network of design centres. Proposals to be brought forward later in 2020 regarding: improving resourcing of planning departments more broadly. New Chief Officer for design and place-making the Government say is required to drive strong local vision.

<b>Question</b>	<b>Proposed BwD Council Response</b>
Q18: Do you agree that we should establish a new body to support design coding and building better places, and that each local authority	Yes. This will be a central part of the proposed reforms. At the moment, there is a very significant disconnect between the Government's messaging and prioritisation of quality design, and the support and expertise available. Since the abolition of

should have a chief officer for design and place-making?	CABE there has been a lack of adequate national support for Local Authorities in this area.
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**Proposal 13: Re-consider Homes England’s strategic objectives to improve emphasis on design**

Homes England to be engaged through Spending Review process to assess how design quality can be embedded deeper within activities and work programmes.

Question	Proposed BwD Council Response
Q19: do you agree with our proposal to consider how design might be given greater emphasis in the strategic objectives for Homes England?	No comment

**Proposal 14: A fast-track for beauty to incentivise and accelerate high quality development**

This will be done in 3 ways: (i) updating NPPF; (ii) legislate to require masterplan and site-specific codes to be agreed as a condition of the Permission in Principle being granted through the plan; (iii) legislate and widen the nature of Permitted Development rights so that popular and replicable forms of development are approved easier and quicker (though prior approval will still be required). A pilot project will be set up to test the concept.

Question	Proposed BwD Council Response
Q20: Do you agree with our proposals for implementing a fast-track for beauty?	No comment

**Proposal 15: Amend the NPPF to ensure it targets areas where a reformed planning system can most effectively play a role in mitigating and adapting to climate change**

The Government want a more clearer approach about the role local policies can play in identifying important views, improving public places, and looking at areas where renewable energy, woodland or forests could be created. In addition, the Government wants the NPPF to provide more clear and robust guidance for Development Management decisions, so that they are not reliant on Local Plans generic policies. Further guidance on this is anticipated.

**Proposal 16: Quicker, simpler framework for assessing environmental Impacts and enhancement opportunities**

It is proposing to merge Strategic Environmental Assessments, Sustainability Appraisals and Environmental Impact Assessments to remove duplication of

work and extremely long reports that cause unnecessary delays. It is expected this would be subject to further consultation before being finalised.

### **Proposal 17: Conserving and enhancing our historic buildings and areas in the 21<sup>st</sup> Century**

It is proposed to review and update the NPPF to ensure significance is conserved while allowing sympathetic changes to support continued use and addressing climate change. In addition, it is also proposed to review the consent regime and explore the potential for suitably qualified architectural specialists to earn autonomy from listed building consents.

### **Proposal 18: Facilitate ambitious improvements in the energy efficiency standards for buildings to help deliver commitment to net-zero by 2050**

From 2025, new homes to produce 75-80% lower CO2 emissions compared to current levels and be 'zero carbon ready'. Government will review the roadmap for the Future Homes Standard in the autumn to ensure as rapid as possible, and clarify the role that Local Authorities' can play in setting energy efficiency standards for new build developments.

Despite the inclusion of these aspirations in the consultation, it seems that the planning system will have no real part to play in setting the new energy efficiency standards. Instead, they will be implemented through the Future Homes Standard proposed in October 2019, whereby the standards in Part L (conservation of fuel and power) and Part F (ventilation) of the Building Regulations for new dwellings will be tightened from 2025. New homes built to comply with the Future Homes Standard will be expected to produce 75-80% lower CO2 emissions compared to current levels and will be zero carbon ready.

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

Government plans to remove the costly, uncertain and opaque S106 system (that leads to delay and inconsistency). Also plan to remove CIL as it is inflexible in the face of changing market conditions (payment being set at the point planning permission is granted with payment due once development commences). The central vision is to capture more land value uplift generated by planning decisions to deliver new infrastructure provision. A new Infrastructure Levy is intended that will be responsive to local needs, transparent, consistent and simplified and buoyant (so when prices go up benefits are shared fairly).

### **Proposal 19: A consolidated Infrastructure Levy**

A flat-rate, value-based charge across all use classes, set nationally at either a single rate or at area-specific rates. It would aim to increase revenue levels nationally and continue to be collected and spent locally. It would reduce the risk for developers and reduce cash flow difficulties being levied at point of occupation. Local Authorities would be allowed to borrow against levy revenues to forward fund infrastructure.

Question	Proposed BwD Council Response
Q22(a): Should the Government replace the CIL and S106 planning obligations with a new consolidated Infrastructure Levy, which is charged as a fixed proportion of development value above a set threshold?	Sounds ok in practice. Reality may be that Local Authorities will prioritise greatest need and, as such, affordable housing always become the poorer relation. We would need to ensure that we capture what needs to be delivered at the outset
Q22(b): Should the Infrastructure Levy rates be set nationally at a single rate, set nationally at an area-specific rate, or set locally?	Rates should be set locally dependent on local housing markets, site viability challenges etc
Q22(c): Should the Infrastructure Levy aim to capture the same amount of value overall, or more value, to support greater investment in infrastructure, affordable housing and local communities?	Should reflect local demand where housing may be a higher priority in some areas and highways in another
Q22(d): Should we allow local authorities to borrow against the Infrastructure Levy, to support infrastructure delivery in their area?	Would be dependent on finance officers but permission may allow for speedier delivery of outcomes

### **Proposal 20: The scope of the Infrastructure Levy could be extended to capture changes of use through permitted development rights**

To increase the levy base and to ensure a wider range of developments contribute to infrastructure its scope could include capturing change of use applications and even some permitted development rights (e.g. office-residential conversions).

Question	Proposed BwD Council Response
Q23: Do you agree that the scope of the reformed Infrastructure Levy should capture changes of use through permitted development rights?	Yes, as current legislation will sometimes allow for impactful change but no consideration of the development on the local area.

### **Proposal 21: The reformed Infrastructure Levy should deliver affordable housing provision**

The new Infrastructure Levy would be able to raise funds for affordable housing (currently CIL not allowed, all raised through S106). This could be secured through in-kind delivery on-site (e.g. transfer of units to registered providers, difference between market rate and unit price for provider to be offset from the levy). Any approach would need to maintain the quality of affordable housing provision as well as volumes. Also proposed that payments in the form of land within or adjacent to a site could be acceptable.

Question	Proposed BwD Council Response
Q24(a): Do you agree that we should aim to secure at least the same amount of affordable housing under the Infrastructure Levy, and as much on-site affordable provision, as at	Minimum should be the same level of delivery as we currently expect, mindful that viability is a challenge. On site would be preferred route but should be subject to local factors as some sites may not be

present?	suitable for affordable housing provision due to location and ceiling price of new homes
Q24(b): Should affordable housing (AH) be secured as in-kind payment towards the Infrastructure Levy, or as a 'right to purchase' at discounted rates for LAs?	Demand for AHs is increasing for both markets, the Borough still needs more AH for rent than to purchase so onus should be more on 'In Kind'
Q24(c): If an in-kind delivery approach is taken, should we mitigate against LA overpayment risk?	Yes, provision of units should be pegged to allocated IL amount for AHs, any increased provision should be paid for separately by the appointed Registered Provider.
Q24(d): If an in-kind delivery approach is taken, are there additional steps that would need to be taken to support affordable housing quality?	As a general approach, we should be looking to improve size and quality of all new homes. Standards have been relaxed over previous years and further erosion will create substandard homes for the future. Recent experience of the Coronavirus pandemic highlights need for better / larger housing to meet future needs i.e working from home, absent adult offspring returning to live in family homes etc.

### **Proposal 22: More freedom could be given to Local Authorities over how they spend the Infrastructure Levy**

The Neighbourhood Share of CIL at present ensures that up to 25% is spent on priorities in the area that development occurred – parished areas see funding transferred to them. Government proposed to retain the Neighbourhood Share but potentially expand flexibility around spending (ensuring that levy is ring-fenced to at least deliver current levels of affordable housing).

<b>Question</b>	<b>Proposed BwD Council Response</b>
Q25: Should LAs have fewer restrictions over how they spend the Infrastructure Levy?	BwD policy allows use of collected Affordable Housing income to be used as required in any part of Borough. This was needed due to receiving low Affordable Housing sums which needed to be accumulated sufficiently to be used to support future provision. The Council approved variation of spend period from 5 to 10 years for Affordable Housing income
Q25(a): If yes, should an affordable housing 'ring-fence' be developed?	Need to continue previous approach

### **Proposal 23: Develop a comprehensive resources and skills strategy for the planning sector to support the implementation of our reforms.**

It is proposed that the *cost of the new planning system* should be principally funded by the beneficiaries of planning gain – landowners and developers, rather than the national or local taxpayer. The Government have not explained how this will be resourced, but they indicate that currently planning application fees cover Development Management activities, but the cost of preparing Local Plans and enforcement activities is funded by the local planning authority. Are the Government proposing to change this?

Planning application fees are proposing to be set nationally, as they are now. However, they are looking at the new process for developer contributions, in terms of a small proportion being earmarked for local planning authorities to cover their overall costs e.g. preparing and reviewing Local Plans/design codes and enforcement activities. No doubt, there will be further consultation and guidance on this.

Local planning authorities should be subject to a *new performance framework*, which ensures continuous improvement across all planning functions – local plans to decision making and enforcement. The Government are also proposing that the Planning Inspectorate and Statutory Consultees are subject to similar performance targets to improve their performance.

Workforce planning and skills development will be by the local government sector. No further details are proposed, other than it will be important to develop a resourcing and skills framework that works for all authorities.

#### **Proposal 24: We will seek to strengthen enforcement powers and sanctions.**

The Government are looking to review these powers, particularly with regards to addressing intentional unauthorised development e.g. higher fines, and supporting more enforcement activity. There is no further guidance on this.

#### **SUMMARY:**

- 4.7 Some of the changes in proposing a new radical planning system are welcomed, but it is clear from the White Paper, that the devil will be in the detail, and will require forensic scrutiny, as the detail currently is very light. There is no detailed implementation for the plan changes. Could it be phased depending on what primary legislation needs changing?
- 4.8 The COVID-19 pandemic has brought to the forefront how important it is to have strong communities, and to provide high quality, well designed, sustainable and affordable housing that people are proud to call home. Do the reforms proposed achieve this? It is widely acknowledged that the current process to getting a Local Plan adopted is very complex and resource intensive. As such, Blackburn With Darwen Borough Council (BwD) welcome the proposal to streamline this process. However, there is no detail in the White Paper on how this would be successfully achieved, with particular emphasis on the strategic issues, which is so important for BwD in achieving and maintaining its growth agenda.
- 4.9 There are concerns on how the community engagement process will play a role in the new system, as it appears to be front-loading the process, with no further opportunities for the community to comment on development proposals. This would be a significant change in the process, and further guidance will be needed from the Government on how local planning authorities improve their engagement process.
- 4.10 The approval of new development in growth zones will shift to the plan-making stage. The traditional process of politicians deciding planning applications with

opportunities for the public to make representations is effectively at an end. The White Paper suggests that people's right to be heard in person will be changed. The paper states that Planning Inspectors at the appeal stage and local plan stage will now have discretion as to what form an objector's representations might take. The White Paper does not provide a single new right for community participation or a single new opportunity for a democratic moment in the plan-making process but rather reduces both rights and opportunities to participate. There is no basis to the claim that this system will 'democratise' planning. The only additional opportunity comes from the White Paper's suggestion that digitising information will encourage community participation. Digital information can potentially lead to a more openness and transparency, but will this be enough?

- 4.11 The White Paper places a strong emphasis on how new technology can be used in the planning process. This could be a welcome development if it makes data easier to access and plans easier to understand and engage with. The current pandemic has shown that technology is now becoming a driving force in the way people work and communicate. Making processes more accessible is welcome, but technology on its own does not make the planning process more democratic and we need to make sure we are not excluding those who are less technologically able.
- 4.12 Members will be aware that BwD chose not to introduce CIL with regards to developer contributions, as the S106 Agreements process, provided more flexibility, and allowed the Council to negotiate with developers on what contributions where needed for infrastructure improvements, that also took into account the viability of the development. This has been very successful in helping to covenant contributions from developers relating to Highway Improvements, Affordable Housing, Education, and Green Infrastructure requirements. Indeed, on the same Committee agenda, is a separate report "Developer Contributions Annual Report 2019-2020", which includes information on the infrastructure delivered on site as part of new developments in the borough. Therefore, it is strongly recommended to the Government, that prior to bringing any changes removing CIL and S106 and replacing this with a National Infrastructure Levy, detailed stakeholder engagement is required to ensure that any new system does not undermine local authorities' ability to deliver new infrastructure, and affordable housing requirements.
- 4.13 It is clear that with the current pandemic situation, there may be delays in implementing the changes, and the Government have indicated, further consultation on the reforms are likely. Clearly much work is required for such radical changes to the planning system. Watch this space.....

## **5. POLICY IMPLICATIONS**

- 5.1 The Council commenced a Local Plan Review in 2018, and has undertaken considerable work to date. It is currently the aim to commence the next round of public consultation in January 2021 and submit the final version Local Plan to the Planning Inspectorate for examination in public by the end of 2021. This is the point at which the White Paper proposals (and new legislation) are anticipated as

most likely to take effect. The timing, and implications for planning policy, is therefore particularly significant for Blackburn with Darwen.

- 5.2 Despite the significance of the proposed reforms, work is continuing on the Local Plan. A public consultation paper will be taken to December's Executive Board. The format of this will however change now in light of the reforms. The paper will be structured as a 'hybrid' Local Plan – reflecting aspects of the current legislative system and some of the ideas proposed in the White Paper: for example, the ideas of zoning and how these could be interpreted in the Blackburn with Darwen context will be explored; Development Management policies will also be left out.
- 5.3 This 'hybrid' approach will give the Council maximum flexibility to respond to developments in the White Paper as further guidance emerges and/or consultation takes place. The Council will be in a position to continue preparing its Local Plan under the current system should there prove to be significant delays to the White Paper reforms. If the reforms proceed as currently anticipated then the Council will already have completed part of the early work of plan preparation.
- 5.4 The preferred outcome is to be one of the first Local Authorities to adopt a new style Local Plan proposed in the White Paper as opposed to one of the last to adopt an old style Local Plan, which would then require immediate review. This is the reasoning for the proposed approach. A clearer picture of how to proceed to adoption on the new Local Plan will be available in 2021. This will be discussed through the Council's Growth Board and Executive Board forums at the appropriate time.

## **6. FINANCIAL IMPLICATIONS**

- 6.1 None.

## **7. LEGAL IMPLICATIONS**

- 7.1 The proposals are a radical change to the planning system, which will require changes to primary and secondary legislation.

## **8. RESOURCE IMPLICATIONS**

- 8.1 None.

## **9. EQUALITY IMPLICATIONS**

- 9.1 These are changes proposed to primary and secondary legislation, therefore no local equality impact assessment has been made.

## **10. CONSULTATIONS**

- 10.1 None.

## **11. RECOMMENDATION**

11.1 (i) That the Committee note the issues described in the report.

(ii) That the Committee endorse and approve the proposed responses to the questions raised in the consultation document, and agree they are sent to the Ministry of Housing, Communities and Local Government by the 29<sup>th</sup> October 2020.

**Contact Officer:** **Gavin Prescott, Planning Manager (Development Management) & Darren Tweed, Strategic Growth Planning Policy Manager**

**Date:** **2<sup>nd</sup> October 2020**

**Background Papers:** Ministry of Housing, Communities and Local Government, Planning White Paper "Planning For the Future" – August 2020.