

Agenda item 9

Hertfordshire Growth Board (HGB) Proposed Response to 'Planning for the Future' Consultation White Paper

Report Author: Patsy Dell, Hertfordshire Growth Board (Tel: 07949 887794)

1 Purpose of report

- 1.1 The Government is consulting on fundamental reforms to the planning system. It proposes to build a new simpler, clearer and quicker system that actively encourage sustainable, beautiful, safe and useful development, but also makes it harder for developers to avoid their obligations to improve infrastructure.
- 1.2 The Secretary of State supports the need for a simpler, faster, more predictable system, that builds more homes, bridges the current generational divide of home ownership, 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.
- 1.3 The White Paper is open for comments until Thursday 29 October.
www.gov.uk/government/consultations/planning-for-the-future
- 1.4 This report outlines the main parts of the white paper and proposes a joint response from the Hertfordshire Growth Board at Appendix 1.

2 Background

Planning for the Future

- 2.1 The White Paper identifies several problems with the existing planning system: it is too complex; planning decisions are discretionary rather than rules-based; it takes too long to adopt a Local Plan; assessments of housing need, viability and environmental impacts are too complex and opaque; it has lost public trust; it is based on 20th century technology; the process of negotiating contributions for affordable housing and infrastructure is complex, protracted and unclear; there is not enough focus on design and little incentive for high quality; and it does not lead to enough homes being built.
- 2.2 In response the White Paper seeks to: be more ambitious for the beautiful places we create; move democracy forward by harnessing digital technology and giving communities an earlier and more meaningful voice; improve the user experience; support home ownership; increase the supply of land for new homes where it is needed; help businesses to expand; support innovative developers; promote stewardship of our precious countryside; and create a virtuous circle of prosperity in villages, towns and cities.
- 2.3 This narrative is structured around 3 pillars and 24 proposals as set out in the white paper. The proposals are set out in black and explanation and comments from officers are set out in blue.

- 2.4 A key principle appears in Paragraph 5.14 which states that “*We envisage the focus of local planning authorities shifting towards the development of clear Local Plans and high-quality design codes which set the parameters for development – rather than making discretionary decisions based on vague policies.*”
- 2.5 The White Paper states that subject to consultation the Government will seek to bring forward legislation and policy change to implement these reforms. They accept that the detail of the proposals will need further development. The proposed joint response has been considered by HIPP.

Pillar One: Planning for Development

- 2.6 Proposal 1: The role of land use plans should be simplified. Local Plans should identify three types of land – growth areas suitable for substantial development, renewal areas suitable for development and protected areas that are protected.
- 2.7 It proposes that growth areas suitable for substantial development would include new settlements, urban extensions and major redevelopment sites. Sites given this designation would have outline approval for development. Renewal areas would cover existing built-up areas where smaller scale development and gentle densification is appropriate. Protected areas would include green belt, conservation areas, local wildlife sites, important green spaces and gardens.
- 2.8 This is a fundamental change from the existing plan-making system, which currently allows Councils to create multiple allocations and designations for different sites. Most fundamental is that development in growth areas would have automatic outline permission in principle and would only need to go through a prior approval or reserve matters process to gain full permission.
- 2.9 The Government proposes “the delegation of detailed planning decisions to planning officers where the principle of development has been established, as detailed matters for consideration should be principally a matter for professional planning judgment”. This may mean that there is a lesser role for a traditional planning committee, as the principle of the development will not be for consideration.
- 2.10 The removal of considering the principle of development and, for example, whether there is a sufficient five-year housing land supply, will free up officer time to consider the design of the scheme. If an officer considers that a housing scheme does not comply with the relevant design code, the application can be refused without balancing this against the presence or not of sufficient housing land supply or employment land for an application for commercial space.
- 2.11 Proposal 2: Development management policies established at national scale and an altered role for Local Plans.
- 2.12 It proposes that Local Plans should only contain site/area specific development management policies in growth and renewal areas. In all other cases the Council would default to the NPPF when determining applications. The emphasis would instead be on design guides and design codes, ideally in a machine-readable format to allow digital services to screen proposals.

- 2.13 Proposal 3: Local Plans should be subject to a single statutory 'sustainable development' test which replaces the existing tests of soundness.
- 2.14 It proposes that the sustainability appraisal process be abolished and replaced with a simplified process for assessing the environmental impact of plans. This could be a good thing as the SA process is expensive, complicated and opaque, but does ensure that development is considered in terms of its individual and cumulative impacts on the natural, built, social and economic environment.
- 2.15 It proposes that the duty to cooperate test would be removed, although it recognises that some mechanism to consider strategic cross-boundary issues is required. It mentions for example that mayors of combined authorities could oversee the strategic redistribution of development targets over their area.
- 2.16 It proposes a slimmed down assessment of deliverability within the new sustainable development test. Sites should not be included in a plan where there is no prospect of supporting infrastructure. This could be a good thing as it is very difficult to fully evidence the deliverability of a plan that lasts for 15 years.
- 2.17 Proposal 4: A standard methodology for establishing housing requirements, which would factor in affordability and land constraints.
- 2.18 It proposes that Local Plans should identify sites to meet a range of development needs for a minimum period of 10 years. The process is currently dominated by debates about housing numbers. A standard methodology would be binding but would take account of the size of urban settlements, the relative affordability of places, the extent of land constraints in an area, the opportunities to make better use of brownfield land for housing, the need for non-residential development and a buffer to ensure enough land is available.
- 2.19 The Government agenda is clear that councils and communities spend too long prevaricating about housing need and that not enough land has been released for development, leading to worsening affordability. A standard methodology would delete the requirement for any housing needs evidence. The Local Plan would be expected to find enough land for whatever target the methodology generated for the area. The Government wants to shift the debate from housing numbers to development locations and development quality.
- 2.20 Proposal 5: Areas identified as growth areas would automatically be granted outline planning permission for the principle of development.
- 2.21 This means that that any outstanding design and technical details would be agreed through a faster consent route as well as significant site capacity and other technical testing taking place upfront (at an increased cost to councils and strategic authorities). This proposal has merit where the Council has already satisfied itself on the principle of development and prepared a design code to guide quality. This means communities will have to be involved at the Local Plan stage and in the preparation of design codes, potentially many years in advance of the site coming forward for development, as the opportunity for further comment at the planning application stage will no longer exist.
- 2.22 It proposes that planning permission would still be required for renewal areas, with a general presumption in favour of sustainable development.

- 2.23 It proposes that planning permission would still be required for protected areas and judged against NPPF policies.
- 2.24 This will mean a lesser role for traditional planning committees or those committees will scrutinise the detailed elements of a scheme even more deeply, the principle not being for consideration.
- 2.25 Proposal 6: Decision-making should be faster and more certain, with firm deadlines and make greater use of digital technology.
- 2.26 The Government proposes to work with technology companies to streamline and digitally-enable as much of the planning process as possible. The deadlines of 8 or 13 weeks should be firm deadlines rather than aspirations that can be easily extended. The validation and submission of applications should be integrated. Applications should be shorter, standardised as much as possible, data-rich and machine-readable. Better software should improve the user experience. There should be a digital template for planning notices, with less reliance on lampposts, newspapers and libraries. The detail should be left to planning officers where the principle of development has been established.
- 2.27 The White Paper also outlines that fees will still be set nationally and intends that pre-application fees will be regulated in future.
- 2.28 All of the above is welcomed, as the planning system still relies excessively on paper and pdf documents that must be printed or downloaded to read. It should be recognised however that not everyone is digitally enabled, and many residents still rely on planning notices on lampposts to become aware of local proposals.
- 2.29 Proposal 7: Local Plans should be visual and map-based, standardised, based on the latest digital technology and supported by a new template.
- 2.30 Local Plans should be built on data standards and digital principles. There will be a model template for Local Plans. Plans should be fully digitised and web-based to allow instantaneous publication of updates. This will enable a national digital register of planning policies. This will also enable new digital engagement processes to be established. This will start with a series of pilot projects.
- 2.31 Proposal 8: LPAs and PINS will be required to meet a statutory timetable for key stages of the Local Plan process.
- 2.32 It proposes that Local Plans should take 30 months (2.5 years) to produce. Stage 1 (6 months): The Council calls for suggestions for areas under the three growth/renewal/protection categories. Stage 2 (6 months): The Council drafts its Local Plan and produces any necessary evidence. Stage 3 (6 months): The Council simultaneously submits the plan for examination and publicises the plan for public comment. Stage 4 (9 months): A planning inspector considers whether the three categories are 'sustainable' and those who have commented have the right to be heard. Stage 5 (6 weeks): The plan is finalised and comes into force. This timetable would be enforced via a statutory duty with the risk of Government intervention thereafter.
- 2.33 Based on existing experience of the Local Plan process the time frames set out above are incredibly ambitious. Stage 2 assumes that policies can be drafted at the same time as evidence is produced rather than as a result of obtaining that evidence. Stage 4 makes no

reference to considering the wording of localised policies, design guidance and design codes. The process takes no account of the sparsity of experienced planning officers. The process takes no account of the democratic process of getting plans agreed by councillors. The process takes no account of the variety of parties – councillors, landowners, developers, agents, statutory bodies, utility companies, town/parish councils, businesses, community groups, residents, etc – that need to be engaged. Although a standardised template and process with greatly assist, it is considered unrealistic that a sound Local Plan could be prepared in this timescale.

- 2.34 Proposal 9: Neighbourhood Plans should be retained as an important means of community input.
- 2.35 It proposes that their content should be more focused in line with Local Plans and make more use of digital tools and digital data. The Government also wonders whether very small plans for types of development could be made at street level.
- 2.36 Proposal 10: A stronger emphasis on build-out through planning.
- 2.37 It proposes that masterplans, design guidance and design codes should include a variety of development types by different builders, to allow more phases to come forward together.
- 2.38 There are no proposals to encourage or penalise developers who secure planning permission but do not build-out their sites. The emphasis remains entirely on councils to prepare plans and grant planning permissions as quickly as possible. There is a risk that this yields far more allocations and permissions than are actually required to achieve local housing requirements.

Pillar Two: Planning for Beautiful and Sustainable Places

- 2.39 Pillar Two wants to enable the creation of beautiful places that will stand the test of time, protect and enhance the precious environment and support efforts to combat climate change. Planning should generate net gains for the quality of the natural and built environment. This should be done through the National Design Guide, a National Model Design Code and through local design guidance and design codes which reflect local character and community preference. Most of the proposals are taken from the Better Building, Better Beautiful Commission.
- 2.40 Proposal 11: Expect design guidance and design codes to be prepared locally with community involvement, to make sure design expectations are more visual and predictable and to ensure that codes are more binding on decisions about development.
- 2.41 It proposes that councils should prepare design guidance and design codes which translate the basic characteristics of good places into what works locally.
- 2.42 For information, design codes would set precise rules governing architecture styles, materials, façade, heights, density, etc and would go into much more detail than design guidance which normally include less precise objectives such as ‘to respect the character of the area’. They would also have to be provably popular, popularly endorsed and based on genuine community involvement.
- 2.43 The fundamental tenet of the White Paper appears to be that if local communities are involved in the design of developments then they will support the principle of development.

This counters local experience that people often seek to resist the principle of development in their community regardless of what it might look like. Experience in Hertfordshire is that residents are far more concerned about the loss of the land to buildings, its traffic generation, the capacity of local schools and healthcare services, etc.

- 2.44 Proposal 12: Set up a body to support the delivery of popular local design codes and for councils to have a chief officer for design and place-making.
- 2.45 It recognises that the vision requires a step-change in the design skills available to councils. The Government will therefore explore options that enable councils to draw on the expertise of recognised experts. Other proposals to streamline the planning system will allow some refocusing of professional planning skills.
- 2.46 Proposal 13: Consider how Homes England’s strategic objectives can give greater emphasis to delivering beautiful places.
- 2.47 It proposes that Homes England can lead by example, to champion design quality. This should be supported, particularly as Homes England have been active in Hertfordshire recently acquiring a site at Panshanger which has outline planning permission for 600 homes.
- 2.48 Proposal 14: A fast-track for beauty through national policy, to incentivise high quality that reflects local character and preferences.
- 2.49 It proposes that where proposals comply with pre-established principles of what good design looks like, then it should be possible to expediate development through the planning process, to incentivise attractive and popular development. This will be done through wording in the NPPF, a legislative requirement for masterplans and design codes for growth areas and by widening the nature of permitted development so popular and replicable forms of development can be easily and quality approved in renewal areas.
- 2.50 Design can be remarkably subjective. It remains to be seen whether locally popular design types and styles can be successfully identified.
- 2.51 Proposal 15: Amend the NPPF to ensure it targets those areas where a reformed planning system can most effectively play a role in mitigating and adapting to climate change and maximise environmental benefits.
- 2.52 It proposes that the planning system plays a proactive role in environmental recovery and long-term sustainability. This will be progressed through the Environment Bill and the NPPF.
- 2.53 The proposal is more ambition than action.
- 2.54 Proposal 16: A quicker and simpler framework for assessing environmental impacts and enhancement opportunities.
- 2.55 It recognises that consideration of environmental issues is vital but often creates long reports that inhibit transparency and cause delays. It proposes that processes should use national and local data to speed up decision-making.
- 2.56 The proposal is more ambition than action.

- 2.57 Proposal 17: Conserving and enhancing our historic buildings and areas in the 21st century.
- 2.58 It proposes that Local Plans should clearly identify the location of international, national and local heritage assets and local features such as protected views. It wants historic buildings to play a central role in the renewal of towns and villages. Planning should be sympathetic to changes that enable their continued use and to address climate change and energy efficiency.
- 2.59 Proposal 18: Facilitate ambitious improvements in energy efficiency of buildings to deliver net zero by 2050.
- 2.60 The Government has ambitions that new homes will produce 75-80% less CO2 emissions than current levels by 2025 and net zero by 2050. It is not clear whether this will be done through the planning system, building regulations or other mechanisms.

Pillar Three – Planning for Infrastructure and Connected Places

- 2.61 Pillar Three recognises that new development creates new demands for public services and infrastructure. This should be achieved by securing contributions from developers and capturing land value uplift generated by planning decisions. The current system relies on opaque and uncertain planning obligations which are subject to negotiation based on viability appraisals and CIL which is inflexible in the face of changing market conditions. The Government wants the process to be responsible to local needs, transparent, consistent, simplified and buoyant.
- 2.62 Proposal 19: CIL should be reformed to be charged as a fixed proportion of the development value above a threshold, with a mandatory nationally-set rate/rates. The current system of planning obligations should be abolished.
- 2.63 It proposes a nationally-set, flat-rate, single-rate or area-specific rates, value-based charge, to be charged on the final value of a development at the point the planning permission is granted, to be levied at the point of occupation. There would be a minimum threshold below which the levy would not be charged to prevent local viability development becoming unviable. The alternative option is that the levy remains optional and set by each council.
- 2.64 Councils would be allowed to borrow against Infrastructure Levy revenues to forward-fund infrastructure.
- 2.65 Proposal 20: Scope of Infrastructure Levy could be extended to capture changes of use through permitted development rights.
- 2.66 This is welcomed. The recently announced new permitted development rights are likely to increase the number of change of use proposals in employment areas and town centres.
- 2.67 Proposal 21: Reformed Infrastructure Levy should deliver affordable housing provision.
- 2.68 It proposes that the Infrastructure Levy could secure on-site affordable housing through in-kind delivery where the authority has a requirement, capability and wishes to do so. An affordable housing provider who purchase the affordable dwellings at a discount from market rate and this would be offset from the final levy value. It believes that risk can be mitigated through design policies to maintain existing levels of on-site affordable housing delivery and that councils could flip units back to market units if there is a market fall. An

alternative would be for councils to accept land within or adjacent to the site as part of the Levy.

- 2.69 The White Paper states that this would create an incentive for the developer to build on-site affordable housing, but it does not provide any evidence to this effect. Experience suggests that developers often prefer to make a financial payment for off-site affordable housing, thus making their scheme all market housing and therefore more exclusive. It seems to assume that market housing is the default aspiration of developers, councils and purchasers.
- 2.70 The Government has issued a separate consultation paper on amending the small sites threshold for affordable housing to up to 40-50 homes.
- 2.71 Proposal 22: More freedom could be given to councils over how they spend the Infrastructure Levy.
- 2.72 It recognises that affordable housing and infrastructure requirements may vary depending on an authority's circumstances. It proposes flexibility for councils to decide how to spend their levy receipts: local infrastructure, parks, open spaces, street trees, community facilities, improving services or reducing council tax. It proposes that up to 25% should continue to go to town/parish councils (which presumably continues to mean 15% default and 25% where there is an adopted neighbourhood plan).

Delivering Change

- 2.73 Proposal 23: Develop a comprehensive resources and skills strategy for the planning sector.
- 2.74 It proposes to consider arrangements for transitioning and implementing these changes with minimal disruption, subject to consultation responses. It wants the public sector to make best use of surplus land to support the renewal of towns and villages, to explore how the disposal of publicly-owned land can support SME and self-build sectors, to support innovation in the delivery of homes and development and make sure the planning system has the right people and the right skills by freeing-up planners to focus on creating great communities. They will need sufficient leadership, a strong cadre of professional planners, good access to technical expertise and transformed digital technology but should also become more outward looking and proactively engaging with developers and communities. It envisages the focus shifting towards clear Local Plans and high-quality design codes which set the parameters for development, rather than making discretionary decisions based on vague policies. It considers that all of the above proposals should substantially remove the risk of judicial review, as most challenges are about imprecise and unclearly worded law or policies, while these proposals create simple and clear processes that remove ambiguity.
- 2.75 It proposes that the cost of the new planning system should be principally funded by its landowner and developer beneficiaries, rather than the national or local taxpayer. Planning fees will continue to be set on a national basis and at least cover the full cost of processing the type of application based on clear national benchmarking. A small proportion of Infrastructure Levy income should be earmarked for councils to cover their planning costs, including the preparation of Local Plans, design codes and enforcement activities.
- 2.76 Councils should be subject to a new performance framework that ensures continuous improvement and enables early intervention if problems emerge.

- 2.77 The Government will continue to engage with the PropTech sector to unlock data that underpins the planning system and transform digital processes.
- 2.78 Proposal 24: Seek to strengthen enforcement powers and sanctions.
- 2.79 It proposes more emphasis on enforcement of planning standards and decisions, including the introduction of more powers to address intentional unauthorised development and encampments and higher fines. It outlines that as local planning authorities are freed from many planning requirements through our reforms, they will be able to focus more on enforcement across the planning system.
- 2.80 The proposal is more ambition than action.

Changes to the Standard Methodology

- 2.81 The standard methodology is used by the Government to calculate housing requirements for each authority area. The aspiration is to deliver 300,000 homes per year and one million homes over this parliament. The standard methodology forgoes the time and cost of commissioning housing need studies. The current methodology uses a ten-year average of 2014-based household projections adjusted to take account of the affordability of the area, capped at 40% to limit the increase each authority has to accommodate. They result in low projections in some places, due to overcrowding and concealed households. They project past trends but do not forecast future need. The new methodology proposes to introduce a new element to take account of the number of homes already in the area and an affordability adjustment that takes account of changes over time.
- 2.82 The new standard methodology currently results in the following requirements, but a much greater annual target for London, which could have consequences.

	Current LP	Last 3 yrs delivery	Current method	Proposed method
Broxbourne	454	337	594	465
Dacorum	430	627	1023	922
East Herts	839	666	1145	1122
Hertsmere	266	524	716	668
North Herts		347	973	625
Stevenage	380	350	444	322
St Albans		450	893	997
Three Rivers	180	186	624	588
Watford	260	309	787	533
Wel Hat		347	875	667
Herts Total	2809	4143	8074	6909

First Homes

- 2.83 First Homes are houses/flats to be built on developments and sold to local people with a discount of at least 30%. This consultation proposes that 25% of all affordable homes securing through Section 106 contributions should be First Homes, preferably to be delivered on-site. They should replace as a priority other forms of affordable home-ownership products.
- 2.84 First Homes may still be out-of-reach for many people in Hertfordshire.

Small sites planning policy

- 2.85 This consultation proposes that the threshold for sites to make affordable housing contributions be raised to 40-50 units (whereas it is currently 10 units). It recognises that this would reduce affordable housing provision by somewhere between 7-20% but would be offset by allowing small sites to come forward quicker and minimise the pressure that SME builders are currently under.
- 2.86 This would have the obvious impact of reducing the number of affordable dwellings that are likely to be provided. If implemented councils would only secure affordable housing from larger developments. This would likely have a severe impact as some councils are currently delivering most of their new housing from smaller brownfield sites.

Extension of permission-in-principle

- 2.87 Councils are currently allowed to grant sites on their brownfield register for less than 10 units for permission-in-principle, so that developers only need to resolve detailed reserve matters in order to start building. This consultation proposes to extend permission-in-principle to cover major developments up to 150 dwellings that do not require an environmental statement, plus introduce a lower fee to incentivise their take-up.
- 2.88 There is a lack of local experience to draw upon in responding to this question. It should be noted however that the responsibility for resolving matters that form part of a permission-in-principle must be shared between the Council and the landowner, whereas planning applications are overwhelmingly the responsibility of the landowner.

3. Next steps

- 3.1 The proposed Growth Board joint response is attached at Appendix 1. The Board is asked to give any additional feedback so officers can finalise the response and submit it to MHCLG within the consultation period.

4. Recommendation

- 4.1 Subject to any additional content or changes, the Growth Board is recommended to approve the draft response attached at Appendix 1.