

MHCLG

White Paper: Planning for the Future

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Dear Sir/Madam, |

The statement attached to this covering letter details the response of Test Valley Borough Council to the consultation on the White Paper: Planning for the Future. The Council has only made representations to those elements of the white paper which raise particular issues, and has not therefore commented upon every question.

The Council whilst recognising the potential merits of making reforms to the planning system, particularly the principle of simplifying and speeding up the current Local Plan preparation process, it nevertheless has some significant concerns regarding the form and implementation of some of the proposed changes and the resulting potential consequences. We would therefore wish to see a number of amendments made to the reforms as they are currently proposed.

If a 30 month statutory period for Local Plan preparation is introduced, then further information is needed on how this can be achieved, including ensuring that the necessary evidence base can be put in place, and particularly that there is sufficient opportunity for ongoing meaningful community and stakeholder engagement, which is limited under the current proposals. Greater clarity and further detail is also needed over a number of the reforms and how they should be applied.

The Council has previously commented upon the changes to the current planning system consultation on changes to planning policy and regulations. We remain strongly committed to housing delivery and are currently exceeding our targets, with recent delivery significantly above the level set in our adopted Local Plan housing requirement, we have met the Housing Delivery Test, and have maintained a five year housing land supply. However, we have concerns regarding the scale of need which the latest standard method suggests for the future, as the latest standard method results in an 80% uplift due to affordability from the baseline household projection, itself set taking into account recent rates of delivery. The standard method should have the flexibility to take account of local circumstances and the housing requirement should be set locally. The algorithm as proposed is not supported.

Thank you for the opportunity to comment on the White Paper and we look forward to the outcome of the Government's consideration of the comments received and the further development of progressing with the details of the reforms.

Yours faithfully

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Councillor Nick Adams-King, Deputy Leader and Portfolio Holder for Planning

Test Valley Borough Council's response to the White Paper: Planning for the Future

This statement sets out the Council's response to the proposals within the Government's White Paper. The Council has only made representations to those elements of the white paper which raise particular issues.

Q5

The concept of identifying three types of land is similar to how many local plans are currently structured, setting out areas where the principle of development is accepted. However, to understand how the typology would work there needs to be more detail especially with how these areas overlap with Neighbourhood Development Plans and how they may operate in town centres and other urban areas planned for regeneration that incorporate areas that would be classified as Protected areas (such as Conservation Area).

The white paper suggests that ecological sites would be identified and protected through the local plan process. Whilst this may work for those areas already designated this approach misses the opportunity to create new habitats and natural corridors linking protected ecological sites. To assume that all sites which have an ecological value can be identified as part of the local plan process is also unlikely to be achieved. Therefore an approach of land being defined as renewal or growth subject to confirmation of more detailed ecological assessment may be a pragmatic way forward.

The Council supports the reference to open countryside within the areas to be protected outside of growth and renewal areas. It is fully accepted that national designations require protection however the specific mention of open countryside is welcomed. There are specific practical questions the Council has with regards to the proposals application. In part this is due to the terminology used within the section including 'gentle densification' and what constitutes 'substantial development'. More clarity would be required to avoid confusion.

Q6

It is agreed that there is no need for Local Plans to repeat policies which are contained within national policy, and a set of standardised development management policies would assist in reducing the length of local plans and the time for their production.

However, Councils should be able to adopt a refined approach at either the local or sub-regional level where this is justified as there may be specific circumstances which mean that a defined approach needs to be taken. This could include more detailed or bespoke policies that align with national policy, as well as policies on areas not covered by such national policy.

Q7

The principle of a simplified test for Local Plans is supported. However, without further detail of the new proposals it is unclear how this would work in practice. Further consultation should take place on the more detailed proposals for the new test.

The principle of introducing a data driven Local Plan to help decide what infrastructure is needed and where it should be located is supported. This would appear to replicate the evidence based system that is currently in place. However it is difficult to see how this would work in practice with the delivery of infrastructure mainly being outside of the control of LPAs and the way in which individual infrastructure bodies work not making this possible. Infrastructure providers work on a much shorter timeframe than the local plan period and are often difficult to engage with. Unless significant changes are made to the way in which the infrastructure providers operate and engage, this objective will be difficult to achieve.

Q7b)

The current requirements under the duty to co-operate have not been effective in planning for strategic matters, and therefore the removal of the duty to co-operate is supported in principle. However there needs to be alternative arrangements put in place. Authorities can not undertake

strategic planning in isolation and a replacement mechanism needs to be established. Without it there would be no form of planning or coordination above the district level which could lead to a series of disconnected local plans. The Council has been part of the existing joint working arrangements through the Partnership for South Hampshire. This model has facilitated strong collaboration on a shared strategy and a common evidence base. It will be important that the government considers the need for on-going collaboration as an integral part of the reforms.

Q8a)

The Council does not support a nationally set binding housing requirement. To empower local planning then local housing needs should be identified and set at a local level having taken account of constraints. The detailed consideration of local issues and the setting of local targets will ensure that a proportionate amount of development will be planned for and delivered within the area and more accurately address local need. Any locally set target should be tested against national policy requirements through Local Plan examination.

In the Council's experience the introduction of a standard housing methodology does provide certainty and removes a time and resource consuming element of the local plan process. However, the algorithm as proposed is not supported.

It should be noted that Test Valley is meeting its current planning housing targets, indeed we are exceeding them. Recent housing delivery has been significantly above the level set in our adopted Local Plan housing requirement, we have met the Housing Delivery Test, and have maintained a five year housing land supply. We have concerns however regarding the scale of need which the latest standard method, included in the earlier consultation, suggests over the forthcoming plan period of our next Local Plan, which is in preparation.

For Test Valley, the latest standard method results in a need for 813dpa, which is an increase from 550dpa using the previous methodology and an 80% uplift due to affordability from the baseline household projection of 451dpa. Our adopted Local Plan requirement is in contrast currently 588dpa, which was set accounting for demographic and economic needs. The Council has actively planned for housing and worked with the development industry to maintain supply. This approach has consistently seen the Borough achieve one of the highest rates of completions out of all Hampshire authorities for the last six years.

However, by taking a proactive and successful approach to delivery, the Council is unfairly penalised by the proposed method inflating the housing requirement. This proposed figure of 813dpa reflects both a high level of recent delivery, affecting the household projections, and a decrease in affordability over the last 10 years, even though this is broadly in line with what has occurred nationally and affordability has improved relative to the position for the county and region. We would therefore question whether this is due to a lack of local delivery.

We are already doing, and are willing to continue to do, more than our fair share to meet the Government's housing aspirations. However the scale of need which the latest form of the standard method generates is considered excessive and on the false premise that this authority has not been planning for the homes needed both nationally and for Test Valley specifically. The Council requests that any future standard method addresses these specific points, together with as relevant, the relationship with any shared evidence base (Q7b).

Q8b)

Consideration should not be limited to areas of national land and environmental policy like Green Belt and flood risk zones. Reference should also include Area of Outstanding Natural Beauty. Councils should be able to feed into the process of identifying the constraints within the area by identifying those locations which should be protected.

Q10)

It is difficult to see how taking funding away from authorities will improve efficiency and there is no evidence that proves such measures will assist in the speedy determination of planning applications. Also such measures could lead to authorities determining applications within the time scale to the detriment of the applicant so they do not lose the planning fee, if anything this could be counterproductive to applicants. Resubmission of applications to overcome a refusal of planning permission will ultimately lead to slower decision making.

It is wholly inappropriate to have to refund a fee if an application is allowed at appeal. This is nothing more than a threat to local authorities if they dare refuse planning permission which will or could lead to poor planning decisions. Decisions are based on planning judgement and this proposal will lead to Councils, especially those where funding is difficult, approving because of fear and not on the planning merits of the case.

Standardisation of application requirements will reduce uncertainty and the increased use of technology, if properly funded, will reduce errors and speed up processing. However, the perceived loss of democracy in the decision-making process needs to be considered. For example, the scaling back of information for applications is an interesting point but how does this fit the communities expectations, they expect to see the information that demonstrates a development proposal will not impact on their amenities or that of the environment. How can a LPA consider proposals without the relevant information and make a decision that is fit for purpose?

Q11)

The Council supports the government's proposals for more accessible, web-based Local Plans and would welcome the opportunity to be a pilot authority to develop innovative solutions to support plan-making activities and make community involvement more accessible and engaging.

Given that councils will require a significant amount of time to prepare for this digital transformation, and to ensure that they have the correct systems and skills sets in place to deliver the government's aspirations, it is vital that the resources and guidance are in place as soon as possible.

Reflecting wider aspirations in the White Paper, to ensure the planning system is inclusive and accessible to all, it would be essential to ensure that local plans are also available in other (non-digital) formats.

Q12)

The principle of a simplified Local Plan process is welcomed, as it is agreed that the current local plan process has become too complicated and takes too long to carry out. This has not been helped by constant changes to the system over the past 15 years.

Whilst the Council supports the streamlining and speeding up of the plan-making process, it has a number of concerns in relation to the proposals for a 30 month statutory timescale for the production of a Local Plan.

This timescale does not provide sufficient time to undertake all the key stages required to produce a local plan in a robust manner and risks the quality and soundness of the Plan. Whilst the proposals indicate that the content and form of local plans would be much reduced, the proposed changes would require additional work up front. Further information is required in terms of the likely evidence base requirements in order to fully assess whether the timescales could be achieved. As drafted the proposals assume that all evidence can commence at the same time. This is not the case. The evidence studies help to inform local plan proposals and often trigger additional more detailed studies.

Furthermore, it doesn't allow sufficient scope for stakeholder and member involvement in the Plan making process or take into account the local decision-making process. The Council's approach is

one of engagement and co-operation with its communities and the proposed approach would not allow that to be undertaken in any meaningful way.

Clarification is also required on how the proposed new-style examination of the Plan would work and whether there would be the requirement for another round of public consultation if the Inspector made binding changes to the Plan to ensure transparency.

If the government is committed to introducing a 30 month timescale for Plan production then they will also need to ensure that Local Authorities have sufficient resources to implement this.

Q13a)

The Council fully supports local communities in establishing their own planning framework for their area either through neighbourhood planning process or other community planning mechanisms. Local communities should have the opportunity to plan for their future needs but they do need additional resources and support to achieve this. Also, the role of neighbourhood plans needs to be made clearer for local communities who may still be under the misunderstanding that neighbourhood plans can be a tool to restrict/reduce the amount of development in their local areas.

Q13b)

It would be appropriate to align the sustainability tests for both Local Plans and neighbourhood plans. It would also be appropriate to align the much simpler examination requirements of a local plan, as outlined in the white paper, with those of a neighbourhood plan.

The issue of neighbourhood plans being subsequently made out of date once a new local plan is adopted should also be addressed. An approach which would prevent this from happening could include allowing housing need numbers for a neighbourhood plan to be fixed once adopted for a period of time and then requiring the neighbourhood plan to be reviewed within a statutory period after which any adjustment would be for any changes in policy requirement for the area.

Neighbourhood plans can be as time consuming a process as local plans, so means should be sought to make the neighbourhood plan process faster and simpler. Existing funding to support neighbourhood plan-making should be, as a minimum, retained especially given the drive to digital processes. The government should consider that where a plan seeks growth there should be additional funding available to match the aspirations of the neighbourhood plan area.

Consideration should also be given to providing clarity on the relationship between neighbourhood plans and how the Local Plan housing requirement is distributed, including the allocation of housing numbers to areas where there is a neighbourhood plan.

Q14

The Council fully supports any proposals which seek to bring forward those sites which have been granted planning permission but have failed to be developed. As part of any future reforms the Government should look beyond the planning system and consider what measures can be put in place to force the development industry to bring sites forward. In our experience sites have not been developed because of matters outside the control of the planning system. This manipulation of housing supply results in an impact on the Council's ability to demonstrate a housing land supply, risking speculative planning applications and appeals, and not bringing forward the homes our communities need.

It is not clear how the consultation on transparency of land transactions and creating open data on land registry titles will help speed up housing completions.

Q17

Whilst good design should be at the centre of any development proposal it should be clarified that Design Codes and Design Guidance should be supplementary to the local plan process rather than forming part of it.

Proposal 15

The Council supports the need for a clearer policy framework at a national level to address the role that planning can play in mitigating and adapting to climate change, as well as how this interacts with other regimes and systems. Like many organisations the Council has declared a climate emergency and its working on establishing a carbon neutral borough as soon as possible. To help achieve this there is a reliance on progress being made at the national level. Therefore the Council would welcome further clarity on the timetable for these proposed changes.

Proposal 16

The Council supports the need for a simpler and faster process for assessing environmental impacts and enhancement opportunities, while ensuring that the most valuable and important habitats and species in England continue to be protected/ enhanced. The Council would, however, welcome further clarity on the nature and scale of these changes and the timetable for their introduction.

Proposal 17

The Council considers that the current system allows for change where appropriate, ensuring that the special historic or architectural interest of the heritage asset is protected, whilst mitigating climate change where possible. Continued specialist guidance from Historic England is essential to support officers in local authorities carry out this role.

The proposal to introduce a system whereby approved architects are authorised to carry out works to listed buildings without the need to submit applications to the Council raises significant concerns. There is a lack of detail on how this system would work and the Council is unable to fully scrutinise the proposal. However, in the interests of maintaining proper protection of the historic environment, the Council believes that these decisions should be taken by publicly accountable persons and bodies.

Proposal 18

The Council supports the introduction of the Future Homes Standard and awaits the government's response to the consultation in the Autumn.

The Council agrees that new homes should not need to be retrofitted in the future. Where retrofitting is required, this should also be to a high energy-efficient standard and take into account the feasibility of installing measures on existing homes.

The Council welcomes the further clarification that will be provided with regards to the role that Local Authorities can play in setting energy efficiency standards for new build developments.

Q21

In order to create sustainable developments that meet the needs of both new and existing residents all of the infrastructure and services listed are required. To suggest that developments can be successful without affordable housing, infrastructure or green space does not demonstrate an understanding of how to achieve successful sustainable communities.

Q22a)

The Council supports the need for a simpler, faster and more transparent approach to capturing a greater uplift in land value in order to fund development. The stated aim of raising *“more revenue than under the current system of developer contributions and deliver at least as much – if not more – on-site affordable housing as at present”* is therefore particularly welcomed.

However, the proposal to remove Section 106 agreements is a concern. The agreements are used to control the use of land and not simply to collect contributions from developers. For affordable housing development the S106 agreement is used to determine detail such as development time triggers for affordable housing delivery, tenure/type of housing, provision of specialist housing such as extra care housing, supported housing, and wheelchair accessible housing. Furthermore, there are some

contributions, such as securing ecological mitigation, where such agreements are necessary. It will be necessary to provide an alternative mechanism to allow such contributions to continue to be collected.

The Council is also concerned at how the levy system will work where there may be viability issues and competing priorities for spending the levy, with insufficient levy to cover all obligations. This proposal raises a number of questions, i.e. does that then pass the problem to the LPA with the developer getting consent regardless? Does that weaken the LPA's position because the developer knows that they will get the consent even if the levy doesn't cover the policy levels of AH, and it will be for the LPA to decide which other obligations may take higher or lower priority? Education and infrastructure are costly obligations, which tend to have an impact on what is left of the levy for affordable housing, particularly in low value areas.

The Council would also be interested to understand what consideration there may be for non-traditional affordable housing delivery which may be more costly to deliver eg. extra care housing or other forms of supported housing?

The Council does not support the suggestion that any contribution should be levied at point of occupation. At this stage it would make any enforcement of non payment incredibly difficult. An alternative trigger for payment should be established for example at the commencement of construction.

Q22b)

A nationally set rate, be this a single national rate or area-specific rate would miss the fine grain detail of local values. The consequence is that there will be areas which make development unviable once a nationally set Infrastructure Levy is applied and may require the levy to be set at the lowest common denominator and miss out on possible funding from schemes that are able to provide it.

Q22 c)

The levy should capture more value overall to support greater investment. The current system has allowed the volume house builders to post record profits whilst forcing Councils to make difficult decisions over which infrastructure should be prioritised as insufficient planning gain is captured to fund all necessary infrastructure. Where viability issues are raised, this is often because the price paid for land has not accounted for all constraints, policy and infrastructure costs. While a value based levy is welcome, there is concern about how final values would be verified between the site promoter and the local planning authority. Data sources vary considerably and a standard for inputs to calculate values is required to bring regulation to the process which would avoid unnecessary delay in development coming forward. Further clarification is required on what is meant by 'threshold'. In addition, waiving the levy on low viability development below the 'minimum threshold' is at odds with the value based approach. All development should factor in the costs of infrastructure, including any national or local levies, to arrive at a final development value. If the development is not viable or borderline viable, it is unlikely to incentivise the landowner and therefore bring development forward. Greater investment and resources for the Council to develop skills in valuation and viability will be welcome.

The levy also needs to be sufficient enough to allow for anomalies which may create viability issues which in turn result in affordable housing delivery which is below policy requirements.

Q22d)

Authorities should have the ability to borrow against the levy. However, whilst the ability to forward-fund necessary infrastructure has the potential to secure the delivery of infrastructure in advance of the development coming forward, the financial risk arising from slower than expected delivery or sites not coming forward at all is passed to the Council. . The current pandemic is an obvious example of where local authorities could have been put at considerable financial risk under the proposed levy system.

Q23

The Council agrees that the proposed Infrastructure Levy should incorporate those changes created through permitted development. The future residents of these developments will have the same needs and demands of community infrastructure. . Permitted development that triggers the levy would need some requirement for notifying the charging authority, The levy would also need to be applied as a land charge to incentivise payment.

Q24a)

This should be a minimum and should be at least as much on-site as present, preferably more. Affordable / Social Rent should continue to make up the greatest proportion of tenure provided.

Q24b)

The proposal seems to suggest that the local authority could only secure the in kind payment, rather than secure the detail of the affordable housing delivery, ie. the location, design and clustering of the affordable housing units. The Council would wish to be able to have some control over the distribution of the affordable housing units on a site, rather than leaving it for the developer to decide which ones to offer for sale at a discounted rate to achieve affordable housing provision. There is also a suggestion that if the local authority doesn't want to purchase the affordable units because of the design standards, location within the development, or clustering, the local authority would be able to "flip" them to open market units and take the cash instead. That would seem to encourage poor design/clustering by the developer in order to reduce affordable housing on site and maximise open market development, albeit paying a cash sum to the local authority instead. A cash sum has limited benefit if there are limited sites available on which to deliver the affordable housing elsewhere.

Q24d)

The Council believes that any 'in-kind' delivery should be to a standard acceptable to registered providers and in accordance with the local authority's adopted policies. The white paper suggests that if homes are not delivered to a standard acceptable a cash contribution could be secured. This approach would seem to allow developers the ability to avoid having to deliver affordable homes, which in turn improves the marketability and values of the remaining units.

Q25

The Council supports the proposal of having fewer restrictions in how a future levy would be spent. The existing restrictions are inflexible in situations where previously identified projects are no longer viable and developer contributions cannot easily be re-directed to alternative projects. This will be particularly acute where previously earmarked capital funding for projects has been re-directed owing to reductions in Government funding. The white paper suggests that by giving more freedom it could support a reduction in Council Tax. Given the significant levels of infrastructure that are required to support delivery of development, it is highly unlikely that there will be sufficient funding secured through the development process to enable for this to happen.

Q25a)

The Council would support a mechanism that would protect the delivery of affordable housing and that it cannot be reduced due to other conflicting pressures on the requirements of the levy. This is likely to result in communities that are not mixed or socially inclusive.