

TONBRIDGE & MALLING BOROUGH COUNCIL
PLANNING and TRANSPORTATION ADVISORY BOARD

07 March 2017

Report of the Director of Planning, Housing and Environmental Health

Part 1- Public

Matters for Recommendation to Cabinet - Non-Key Decision (Decision may be taken by the Cabinet Member)

1 THE HOUSING WHITE PAPER

This report summarises the main points arising from the recently published Housing White Paper 'Fixing Our Broken Housing Market' and highlights those matters which may potentially have significant implications for the Local Plan and housing delivery through the planning system generally. The report also sets out some comments that could form the basis of a formal response to the Government.

1.1 Introduction

- 1.1.1 The Government published its Housing White Paper on the 7th February. There had been speculation that it was due to be released last autumn and then earlier this year. It summarises the problems facing the housing market in England and those trying to access it and sets out a number of actions and proposals to address these in order to increase the delivery of new housing and make better uses of the existing stock.
- 1.1.2 The document runs to 104 pages and in simple terms contains four sections dealing with further planning reforms, speeding up the delivery of new homes, creating more capacity in the small and medium build sector and some quick wins to help those struggling to access the housing market now. There is also a more detailed Annex inviting comments on the actions and proposals set out in the first two sections based around 38 set questions. Comments are invited up to the 2nd May.
- 1.1.3 Due to the short timescale between publication and the Board meeting it is proposed that a response be based on the main points raised in this report rather than prepare a response to each of the 38 questions in the Annex.
- 1.1.4 In broad terms the White Paper consolidates and revises much of the planning reforms, consultations, Ministerial Statements and other proposals relating to planning and housing that have taken place over the last few years together with some new initiatives, for which views are sought. Some of these have been

amended to take account of new priorities and proposals emerging since the new administration took over after the Referendum last summer.

- 1.1.5 Some of the measures will come into force almost immediately, while others will be phased over a longer timescale. Some will be implemented through the Neighbourhood Planning Bill currently with Parliament and it is proposed that the National Planning Policy Framework will be updated in the autumn. There is also the option of further legislative changes, regulations and guidance depending on the responses received to the matters which are subject of further consultation.
- 1.1.6 One of the reasons suggested for delays in adopting Local Plans is that Local Planning Authorities have to take into account planning reforms and yet this seems to be ongoing despite reassurances to the contrary. The rest of this report will focus on those matters set out in the White Paper that could have implications for the Tonbridge and Malling Local Plan and a suggested response to Government, where an opportunity is offered. The Local Plan update report also on the Board's agenda will assess the implications for the Local Plan timetable.

1.2 A Short Summary of the White Paper

- 1.2.1 Embedded throughout the White Paper is the recognition that as a country we need to deliver more housing and specifically enough of the right type of housing and in the right places. To do this will require radical reform, building a consensus for a new positive mindset to house building and time.
- 1.2.2 To set the scene the White Paper illustrates the current challenges by highlighting a widening affordability gap, falling/delayed home ownership and rising private sector rents due to the housing shortage. The planning system and the development sector are singled out as the main reasons for the low level of housing delivery. The former due to a lack of an up to date Plan causing confusion and delays in some parts of the country and the latter because houses are not being built quickly enough, despite the large number of planning permissions already granted. One of the problems identified with delivery is the fact most capacity is now provided by a small number of large volume house builders.
- 1.2.3 To tackle these issues the Government has proposed a range of measures to speed up local plan preparation, remove other barriers to development from the planning system, broaden the definition of affordable housing, encourage larger house builders to build more quickly and enable more small and medium builders to play a bigger part.
- 1.2.4 There are also measures aimed at helping more people to access the housing market, tackle some of the issues in the private rented sector and prevent homelessness.
- 1.2.5 Consequently the White Paper brings together a dazzling array of proposals, actions, initiatives, funding streams and all with the aim of delivering more houses. This report will focus on the implications for the Local Plan, but **[Annex 1]**

represents a short summary of all of the proposals set out in the White Paper to illustrate the scale of the changes being proposed.

- 1.2.6 The White Paper certainly represents a shift in emphasis at the national level to promoting housing development wherever it is considered appropriate to do so. This can be illustrated by reference to a recent planning appeal decision in Lichfield, Staffordshire, where the Secretary of State allowed the appeal for 750 homes, a school, neighbourhood facilities and related infrastructure because in his view the social and economic benefits of providing affordable and market housing were of such importance they outweighed the environmental harm. This was despite the Local Planning Authority having an up to date Local Plan, a five year housing land supply and the proposal being contrary to local policies, which the appeal Inspector had accepted in recommending the appeal be dismissed.

1.3 Key Points and Implications for the Local Plan

- 1.3.1 Generally speaking much of what is proposed in the White Paper already reflects the approach we have taken in preparing the Local Plan thus far. For example, the importance we have placed on ensuring the evidence base is up to date and particularly the objectively assessed housing needs, while maintaining a five year housing land supply and making progress with the new Local Plan. There are many similarities with the approach taken in the 'Way Forward' document, for example, by maximising the use of brown field sites before considering other sites and having a range of different sized sites to meet future housing needs.
- 1.3.2 Much of the criticism of the planning system contributing to delay and uncertainty would not apply in the case of Tonbridge and Malling. For example, the White Paper notes at paragraph 1.1 that as of January 2017, 34 Local Planning Authorities had not produced a Local Plan for consultation since the 2004 Planning and Compulsory Purchase Act. Tonbridge and Malling was one of the first to prepare a new Local Development Framework after the 2004 Act between 2007-10. However, the White Paper does go on to say that only a third of Local Planning Authorities have adopted a Local Plan since the NPPF was published in 2012, so there is a clear message to proceed to adoption at the earliest opportunity.
- 1.3.3 Unfortunately, some of the proposals to encourage those Planning Authorities that could improve their performance will inevitably have implications on the evidence base and the process of Plan making for all. Other measures will have resource implications, for example, by increasing the amount of monitoring required.
- 1.3.4 The following examples represent those actions and proposals that potentially have the most significant impacts on the Local Plan, with some comments that could form the basis of a response. A full list of all the proposals can be found at **[Annex 1]** for information.

1.3.5 New Standardised Methodology for Calculating Objective Assessed Needs

1.3.6 The Government believe that one of the main causes for delay in the plan making process is disagreement over how objectively assessed needs for housing is calculated. It is suggested that some Authorities are reluctant to agree a robust figure as it will be unpopular with residents. Procrastination or setting a low level of need that is open to challenge causes delay at the Hearing stage and carries the risk of planning by appeal.

1.3.7 The proposal is for a standard methodology to be introduced so that it is clear on what basis housing need is calculated. It is proposed that there will be further consultations on what the methodology should be and that it will be introduced by April 2018. On introduction it would then be used to calculate 5 year land supply.

1.3.8 Comment

1.3.9 While there is some merit in using a standard methodology that will no doubt save time across the country as a whole, this represents a risk to those Local Planning Authorities who have already prepared this part of the evidence base, should the standardised methodology be different to the one used.

1.3.10 Officers are confident that the methodology that we have applied (advised by the consultants G L Hearn and Partners) is robust and reflects current best practice, but it may be necessary to revisit the Strategic Housing Market Assessment during 2018 as a result of this change. This will obviously have a cost and time implication. If the new assessment results in a higher need figure this may have implications for our 5 year land supply, although, unlikely as it may seem, it may result in lower figure.

1.3.11 In responding to this proposal in the White Paper some reassurance from the Government that those Local Plans that have applied an otherwise sound methodology and reached the submission stage of Plan making should not be required to significantly delay the process any more than is necessary.

1.3.12 Clarification of Green Belt Policy

1.3.13 The White Paper reaffirms national green belt policy and takes an opportunity to clarify the circumstances in which Local Planning Authorities may consider amending boundaries as part of preparing their Local Plans.

1.3.14 In Chapter 1 of the White Paper under the heading 'Making enough land available in the right places' it is acknowledged that Local Planning Authorities should do all they can to meet their housing requirements, even though not every area may be able to do so. In proposed changes to the NPPF, national policy will be amended to state that '.. identified housing requirements should be accommodated unless there are policies elsewhere in the NPPF that provide strong reasons for restricting development, or the adverse impacts of meeting this requirement would significantly and demonstrably outweigh the benefits'.

1.3.15 The Annex to the White Paper at paragraph A.38 goes further by saying:

‘As part of these changes the Government proposes to clarify which national policies it regards as providing a strong reason to restrict development when preparing plans, or which indicate that development should be restricted when making decisions on planning applications: it is proposed that these are limited to the policies listed currently at footnote 9 of the National Planning Policy Framework, with the addition of Ancient Woodland and aged or veteran trees; and that these are no longer set out as ‘examples’ but as a clear list. There has been uncertainty about this aspect of national policy, so this change should provide a clearer position for both plan makers and those making decisions on applications. Ancient Woodland and aged or veteran trees are irreplaceable habitats and we consider it important that national policy reflects the need to protect them’.

1.3.16 Green belt is included in list of policies at footnote 9.

1.3.17 Paragraph 1.39 refers specifically to proposed amendments to the green belt policy in the NPPF, stating that authorities should only amend green belt boundaries when they can demonstrate that they have examined fully all other reasonable options for meeting their identified development requirements including:

- Making effective use of suitable brown field land and opportunities offered by estate regeneration;
- The potential offered by land which is currently underused, including surplus public sector land where appropriate;
- Optimising the proposed density of development; and
- Exploring whether other authorities can help to meet some of the identified development requirement.

1.3.18 It goes further to suggest that where green belt land is removed that the impact should be offset by compensatory improvements to the environmental quality or accessibility of the remaining green belt.

1.3.19 Comment

1.3.20 There has been some speculation that one of the reasons for the delay in publication of the White Paper was that Ministers were uneasy about earlier proposals for green belt releases to meet housing needs. Whether that is true or not, the proposed changes to national green belt policy seem to go much further than simple reassurance. It is still the case that a Local Planning Authority should where appropriate put forward exceptional circumstances for removing the green belt designation, for example, to meet needs where they arise as suggested in our consultation document “The Way Forward”, but the task of convincing an

Inspector has not been made any easier by the proposed amendments to the NPPF.

- 1.3.21 In the case of the proposed strategy set out in The Way Forward, there are other development options outside of the Green Belt, but these would not meet the housing needs in that part of the borough in the West Kent housing market area. The strategy as proposed is a reasonable and balanced option in terms of meeting the guiding principles, which are based on those in the NPPF. However, the proposed changes would appear as a minimum to now require us to explore with neighbouring authorities (presumably Sevenoaks and Tunbridge Wells which are in the same housing market area) whether they can help to meet some of our identified need before proceeding with any proposed green belt deletions. And of course the reverse would also be the case.
- 1.3.22 The amended NPPF would also require some form of compensatory enhancements to the remaining green belt. Notwithstanding the practical difficulties of implementing such improvements with land owners who may not be the same as those having the designation removed, this seems contrary to the purposes of green belt designation. The key purposes of green belt are retaining openness and separation of settlements. Green belt does not have to 'pretty' to fulfil these functions although there is often a strong correlation. These proposals suggest that some green belt is more important than another part because of how it looks, which is a dangerous precedent to set in national policy.
- 1.3.23 There is another issue around consistency of approach to the green belt policy as proposed, but this is picked up under the next heading.
- 1.3.24 New Statement of Common Ground
- 1.3.25 This is new proposal that subject to further consultation will appear in the revised NPPF later this year. Where Local Planning Authorities demonstrate that they cannot meet all of their housing requirement, they will in future be required to work constructively with neighbouring authorities on how best to address the remainder setting out how they will work together to meet housing requirements and any address other cross boundary issues in a new Statement of Common Ground.
- 1.3.26 Comment
- 1.3.27 This proposal is in response to the ineffectiveness of the Duty to Co-operate to successfully address meeting unmet housing need and other cross boundary issues. It does not make the task any easier, but it will have the effect of requiring neighbouring Authorities to explain and justify why they can or cannot accommodate additional growth to meet needs from the wider housing market area.
- 1.3.28 Potential problems could include the fact that neighbouring authorities might be at different stages of Plan making and unable to commit to meeting unmet need at the point that a neighbour makes an approach. There is also the issue of whether

there is the capacity for one authority to deliver housing above a certain threshold, whether there is willingness to do so and sites are available.

- 1.3.29 Another issue for green belt authorities is agreeing consistency in approach. If for example, one authority argues that it is reasonable to remove sites from the Green Belt to meet needs where they arise as an exceptional circumstance, but a neighbouring green belt authority adheres to the reaffirmed national policy on green belt as explained in paragraphs 1.3.12-22 above, then agreeing a Statement of Common Ground could be problematic, to say the least.
- 1.3.30 Clarification should also be sought for what would happen in the event that a Statement of Common Ground is not agreed and whether this would be included in the proposed new powers of intervention in Plan making for the Secretary of State.
- 1.3.31 New Housing Delivery Test
- 1.3.32 The new housing delivery test is intended to hold local authorities to account by monitoring housing delivery against targets. If the number of new housing completions falls below target measured over a three year rolling average Local Planning Authorities will be required to prepare a report explaining why and set out an action plan to address the problem.
- 1.3.33 It is anticipated that the test will be introduced in November and that if an authority's housing delivery is 95% or less than the annual housing requirement that an action plan will be required. If delivery is 85% or less than the target then an additional 20% will be added to the 5 year land supply figure (currently this is only applied to consistent under performers. All Local Planning Authorities have to apply a 5% buffer to their land supply as a contingency i.e. if some sites do not deliver for some reason).
- 1.3.34 From November 2018 a new element to the test will be added. If delivery falls below 25% of target the presumption in favour of sustainable development in the NPPF would apply automatically. This effectively means local policies would carry no weight and any site coming forward that is considered suitable in terms of the NPPF would be deemed to have planning permission in principle.
- 1.3.35 The 25% will be raised to 45% and 65% in subsequent years to enable Local Planning Authorities time to address under delivery in their area.
- 1.3.36 Comment
- 1.3.37 Based on current housing targets and the last three year's delivery rates it is unlikely that T&M will fail the proposed housing delivery tests, however this will need to be carefully monitored in the light of the proposed changes to calculating objectively assessed needs proposed elsewhere in the White Paper.

- 1.3.38 The test is quite onerous given that Local Authorities do not have direct control over delivery of the vast majority of housing in their areas and will have to rely largely on private sector house builders. Seen as part of a package of other measures to encourage faster delivery, for example the suggestion that an applicant's past performance in delivery might become a material planning consideration in future, it does have some merit, but ultimately success or failure will depend on developers delivering what they say they will.
- 1.3.39 It will have a resource implication for the additional monitoring and where necessary preparing action plans. Currently Local Planning Authorities include in their Annual Monitoring Reports a housing trajectory estimating future delivery, based on information from developers, historic delivery rates, national and local trends and local knowledge.
- 1.3.40 Revised Definition of Affordable Housing
- 1.3.41 Members will recall that the Government proposed to revise the definition of affordable housing last year as part of consultations into proposed revisions to the NPPF and to accompany proposals for the new Starter Homes set out in the Housing and Planning Act 2016.
- 1.3.42 The latest proposed definition refines the definition to include discounted market sales housing as an additional affordable home ownership option and introduces affordable private rent housing. This will be subject to further consultation before appearing in the revised NPPF this autumn.
- 1.3.43 The proposed requirement that 20% of qualifying sites should be Starter Homes will be replaced by a new requirement that 10% of large housing sites should be made up by affordable home ownership options, to allow Local Authorities and developers more flexibility in delivering a range of affordable housing.
- 1.3.44 Starter Homes will also have new eligibility criteria in addition to those requiring applicants to be under the age of 40 and being a first time buyer. In future there will also be a household income cap of £80,000 (£90,000 in London) and applicants must have a mortgage. There will also be a 15 year repayment period. If a property is sold in less than 15 years some of the benefit would have to be paid back. These measures are aimed at preventing abuses of the system by property speculators.
- 1.3.45 Discounted market sales housing and affordable private rent housing is described as being 20% or less than market rates.
- 1.3.46 Comment
- 1.3.47 Whilst the proposed changes to the affordable housing definition and Starter Home requirement/eligibility are welcomed, the underlying difficulty of delivering truly affordable housing remain the same. There has been no real effort in the White Paper to address those fundamental barriers to affordability, particularly for

those households who are unlikely to be able to access the private housing market and will need to rely on other forms of tenure. The retention of the Right to Buy will do little to stabilise the more affordable housing stock.

1.4 Conclusions

- 1.4.1 The Housing White Paper represents another significant raft of planning reforms, drawing together and building upon previous reforms, legislation, Ministerial statements, consultations and other proposals with the common goal of increasing housing delivery in England. Further changes are inevitable owing to the fact some of the proposals will be subject to consultation and others areas where views are sought.
- 1.4.2 Some of the changes will have implications for the Local Plan as described in section 1.3 of this report, but there is a clear message from Government that Local Plans should now be adopted as soon as practicably possible. This will be explored further in the Local Plan Update report also on this agenda.

1.5 Legal Implications

- 1.5.1 While there are no direct legal implications arising from this Government White Paper, the proposals will have to be taken into consideration as part of the Plan making process when they are finalised.

1.6 Financial and Value for Money Considerations

- 1.6.1 Some of the proposed changes set out in the White Paper will have financial implications both in terms of the resources necessary for preparing the Local Plan and also in respect of more specific recommendations such as the proposal to increase planning fees by 20% from July 2017. As many of these are proposals at the present time further analysis will be necessary as and when they are finalised.

1.7 Risk Assessment

- 1.7.1 The risks associated with not having an up to date Local Plan have been discussed in some detail in the White Paper. It is in the Council's interest to complete the Local Plan at the earliest opportunity.

1.8 Recommendations

- 1.8.1 That the summary of the Housing White Paper be **NOTED** and that the comments in respect of the key points set out at Section 1.3 of the report form the basis of a response back to the Government by the consultation deadline of 2nd May 2017.

The Director of Planning, Housing and Environmental Health confirms that the proposals contained in the recommendation(s), if approved, will fall within the Council's Budget and Policy Framework.

Background papers:

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Nil

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