

TONBRIDGE & MALLING BOROUGH COUNCIL
PLANNING and TRANSPORTATION ADVISORY BOARD

28 July 2020

Report of the Director of Planning, Housing and Environmental Health

Part 1- Public

Matters for Information

1 PLANNING FOR THE FUTURE WHITE PAPER

This report summarises the main topics set out in the recently published White Paper ‘Planning for the Future’ and highlights specifically those matters which may potentially have significant implications for the operation of the Development Management function.

1.1 Introduction

1.1.1 The Government published the White Paper ‘Planning for the Future’ in March 2020. It follows on from the Budget on 11 March which announced an extension of the affordable homes programme along with over £1 billion of allocations from the Housing Infrastructure Fund to build nearly 70,000 new homes in high demand areas across the country and nearly £650 million of funding to help rough sleepers into permanent accommodation.

1.1.2 The White Paper itself runs to a total of 11 pages in which the Government seeks to set out plans for achieving these aims in more detail, based around three core themes of home ownership, faster decision making and beautiful design and formulated of five sections, as follows:

- i. More homes for local people
- ii. Helping first time buyers
- iii. Creating beautiful, sustainable places
- iv. Affordable, safe and secure
- v. Laying the foundations

1.1.3 One key criticism rooted at the heart of the paper is that the planning process is *“complex, out-of-date and fails to deliver enough homes where they are needed”*.

1.1.4 It is a prelude to the Planning White Paper, which will look to modernise the planning system, speed decision making and *“make it easier for communities to engage and play a role in decisions which affect them”*. The White Paper was due

by June, but this date and likely all dates referred to must be in question given current Coronavirus-related events. Any update on this can be provided verbally by Officers as it becomes available.

- 1.1.5 There are a number of direct implications for the function of Development Management as a consequence of these changes, dependant on the specific detail which is expected later in the year. These implications are the specific focus of the discussion that follows:

1.2 Faster decision making

- 1.2.1 As part of the focus surrounding the delivery of new homes as a continued and overriding aim, the Paper emphasises the need to speed up the planning system and sets out an intention to publish “a bold and ambitious Planning White Paper” which will:

Reform planning fees

- 1.2.2 The paper heralds a new framework for the planning fees charged by local authorities, with the aim being to ensure planning authorities are ‘properly resourced’ and therefore able to improve the speed and quality of decisions. The Government suggests the new fees framework will be linked to a new performance framework to ensure “improvements across the planning service for all users”.
- 1.2.3 There are potential drawbacks to developing such an approach, particularly given the planning system operates within a context of finite human resources with many authorities seeking to attract a small pool of planners. Similarly, such an approach could call into question how authorities are able to use Planning Performance Agreements (PPAs) under which applicants can already pay an additional fee for entering into an agreement surrounding the timescales for determining applications.

Introduction of automatic rebates where planning applications are successful at appeal:

- 1.2.4 This is probably the most controversial element of the Government’s plans contained within the paper. It is purported to be designed to promote “proper” consideration of applications by planning committees. Where applications are refused, applicants will be entitled to an automatic rebate of their application fee if they are successful at appeal. The inference within this statement being that the refund would only apply to planning refusals made by planning committees, but given its policy intention, it might only apply where Councillors overturn officers’ recommendations.
- 1.2.5 A refund based approach would be markedly different from the current system whereby an appellant must demonstrate that the LPA has acted unreasonably in refusing to grant planning permission for a development, regardless of whether

that decision was made by Planning Committee or by powers delegated to officers. This high-bar would effectively be removed and an appeal lost on perhaps a small point would still incur a requirement to refund the fee.

- 1.2.6 Given the wider emphasis of the White Paper is centred on the delivery of new homes, there has been a suggestion amongst the profession that the refund could even be limited to schemes that include a residential element, further limiting the scope.
- 1.2.7 As intimated in the preceding section, the purpose of the planning application fee is to appropriately resource the LPA to enable to allow them to make effective decisions. It is worth mentioning that the refunding of a fee would come after the LPA had done precisely the same amount of resource hungry work in determining an application and defending its position at appeal. The rebates, which councils will find hard to recover from other sources, could be substantial as particularly on large scale schemes, the fee income is significant.
- 1.2.8 In addition, Members will no doubt recognise that it would be wrong to assume that a successful appeal means that the authority concerned has irresponsibly or wilfully made an unfounded decision.

Ensure land for housing is built out:

- 1.2.9 The document says Government will act to make it clearer who owns land by requiring greater transparency on land options – agreements between a developer and a landowner giving the former the right to buy the latter’s land at a specified point in the future. It says the Government will explore “wider options to encourage planning permissions to be built out more quickly”.
- 1.2.10 Delivery is, of course, key to us and given the current situation, will become increasingly fundamental. Officers remain of the view that it is not for want of planning permissions being granted (in the right place for the right purposes) meaning that any focus in this respect must be on the development industry. Moreover, where developments are coming forward across the Borough that will contribute to our five year housing land supply and outline planning permissions are granted, Officers are seeking to impose shorter time frames for submission of reserved matters and subsequent implementation. This is an approach that has also been recently endorsed by the Planning Inspectorate and one we will continue to promote where possible to do so, albeit being mindful that other challenges do now exist.

Expand the use of zoning tools such as Local Development Orders

- 1.2.11 The intention in this respect being to simplify the process of granting planning permission for residential and commercial development through zoning tools, such as Local Development Orders. The plans in fact relate specifically to Local Development Orders which are an existing mechanism.

- 1.2.12 Members should note that Neighbourhood Development Orders are absent from the announcement, but there is no indication that it is beginning of the end for Neighbourhood Planning; neighbourhood forums were mentioned in the context of promoting community and self-build housing.
- 1.2.13 It should be recognised that in reality there has been somewhat limited uptake of LDOs and where they have been adopted it has been primarily for commercial and infrastructure uses, such as business parks and renewable energy projects, rather than creating new residential neighbourhoods. It may be simply that the amount of work and resource that goes into an LDO from inception through to adoption is such that accounts for this relative lack of uptake.
- 1.2.14 Members will no doubt be aware that since the White Paper was published there has been much in the press around the use of zoning in planning. What form that might take in practical terms has yet to be explained but in all likelihood it will expand upon LDOs in some way. As further information becomes available, officers will update Members and will use any opportunity to respond to consultations as robustly as possibly, with the agreement of the Board.

Improve the effectiveness, take up and role of Compulsory Purchase Orders:

- 1.2.15 Planning for the Future says the Government will consult on legislative reforms to speed up the decision-making process for compulsory purchase orders (CPOs) “to help facilitate land assembly and infrastructure delivery”. Among the proposals are: statutory timescales for decisions, ending the automatic right to a public inquiry, encouraging early agreements on compensations, and exploring the scope to remit more decisions back to local authorities. In addition, the paper says MHCLG will introduce further support and expertise, to bolster authorities’ confidence in deploying CPOs. Again, further detail on what form these measures might take in practical terms remains to be seen.

1.3 Building “Beautiful”

- 1.3.1 The White Paper sets out that we need to “remember how” to build beautiful homes and create beautiful places. The government states that it will take action to encourage more beautiful design and to ensure local authorities have the support they need to demand higher standards. In this respect, the government intends to do the following:
- **Revise the National Planning Policy Framework (NPPF) to embed the principles of good design and place making** – this will make clear that high-quality buildings and places must be considered throughout the planning process. The framework will expand on the fundamental principles of good design to define what is expected of local authorities and developers to support the creation of beautiful places.
 - **Respond to the Building Better, Building Beautiful Commission’s report** – we will look to take forward many of the Commission’s

recommendations, which include calling for urban tree planting and giving communities a greater opportunity to influence design standards in their area. This will put tree lined streets at the centre of future plans, so that they become the norm not the exception.

- **Give local authorities the ability to ensure that new homes conform to local residents' ideas of beauty through the planning system** – using the National Model Design Code the intention is to set out clear parameters for promoting the design and style of homes and neighbourhoods local people want to see.

1.4 Creation of new permitted development rights

- 1.4.1 As part of the promotion around more, well-planned development where homes are needed, the White Paper reiterates that there is an intention to introduce new rules to encourage building upwards, increasing density in line with local character and make the most of local infrastructure through the introduction of new permitted development rights for building upwards on existing buildings by Summer 2020, including to extend residential blocks by up to two storeys and to deliver new and bigger homes.
- 1.4.2 There is also an intention to consult on the detail of a new permitted development right to allow vacant commercial buildings, industrial buildings and residential blocks to be demolished and replaced with well-designed new residential units which meet natural light standards.
- 1.4.3 The precise detail setting out how these additional permitted development rights will come forward has yet to be announced but there is concern that those we have already seen introduced, particularly the office to residential conversions pay no regard to the resultant quality of the new homes and do not build in the necessary infrastructure provision that would normally be secured by planning obligation. Moreover, the ability to construct additional floors without the ability to undertake a robust and detailed assessment of all impacts may lead to poor quality developments thus diluting what the government is striving to achieve via the “Building Beautiful” agenda.
- 1.4.4 It may be that the permitted development rights have conditions to satisfy in respect of design quality alongside various technical matters that currently feed into the prior approval process in many cases. However, to include an assessment into design as part of this process adds an additional layer an effectively renders the prior approval process tantamount to a planning application in terms of the level of administration and consideration required on the part of the LPA but with none of the associated abilities to ensure proper place making in the same way such as securing obligations towards affordable housing and infrastructure.
- 1.4.5 In this respect, and given the current challenges we face, this could have marked implications particularly for Tonbridge Town Centre and district centres across the

Borough. Officers from DM, Policy and Economic Regeneration will be monitoring this closely going forward and make recommendations to this Board concerning any consultation responses it may be necessary to make in due course.

1.5 Conclusions

1.5.1 Members will be acutely aware that the White Paper was published against a markedly different national backdrop to that which we are now facing and inevitably this will have implications for the timescales for carrying some of these measures forward and other national imperatives coming to the forefront. That said, it is equally inevitable that the planning system will be identified as a key player in ensuring economic revival and thus the importance of the home building agenda and fast decision making will continue to have much traction. In addition, it is likely that other matters will be promoted further including:

- Work to get hearings and inquiries moving again;
- Framework to ensure that planning permissions do not expire;
- Even greater focus on digitalising the system.

1.5.2 Already, we have seen the publication of the Business and Planning Bill intended to make provision relating to the promotion of economic recovery and growth. Part 3 sets out a number of planning provisions including the modification of conditions relating to construction working hours and the automatic extension of certain permissions.

1.6 Legal Implications

1.6.1 While there are no direct legal implications arising from this Government White Paper, the detail of each of the proposals will have to be taken into consideration as they are finalised.

1.7 Financial and Value for Money Considerations

1.7.1 Some of the proposed changes set out in the White Paper will have financial implications both in terms of the resources necessary and also in respect of more specific recommendations such as the changes to application fees and the automatic rebates for allowed planning appeals. Further analysis will be necessary as and when these proposals are finalised.

1.8 Risk Assessment

1.8.1 It is clear that there are intended to be changes to the system in the short term nationally but clear timescales and what those changes might be remain relatively unknown quantities at this stage. There will therefore be a need to be ready to implement any changes quickly and to ensure that we have the ongoing ability to do that effectively.

1.9 Recommendations

- 1.9.1 That the summary of the Planning for the Future White Paper in respect of potential implications for Development Management be **NOTED**.

Background papers:

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Nil

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