

TONBRIDGE & MALLING BOROUGH COUNCIL
PLANNING and TRANSPORTATION ADVISORY BOARD

29 September 2020

Report of the Director of Planning, Housing and Environmental Health

Part 1- Public

Matters for Recommendation to Cabinet - Key Decision

1 PLANNING FOR THE FUTURE AND OTHER PLANNING REFORMS

This report summarises the Government's current proposals for reforming the planning system and seeks approval for the draft responses annexed in order that the Council's views may be submitted for the 'Changes to the Current Planning System' and 'Planning for the Future' consultations by the deadlines of 1st and 29th October respectively.

1.1 Introduction

- 1.1.1 The Government announced earlier in the year that it would be reviewing the planning system as part of its aim to deliver at least 300,000 new homes per year to tackle the national housing crisis. Some changes, for example to permitted development rights have already come into force during September.
- 1.1.2 The two consultations that are the subject of this report were both launched on 6th August. The consultation into changes to the current planning system is for 8 weeks and closes on the 1st of October. These are seen as short term measures to improve the effectiveness of the existing system and therefore can be implemented sooner than those in the White Paper.
- 1.1.3 The Planning for the Future White Paper sets out proposals for a fundamental review of the planning system. The consultation runs for 12 weeks closing on the 29th October. Once these reforms have been agreed implementation will require new primary and secondary legislation to be passed to replace the existing system with that set out in the White Paper. This could take some time and presumably there will be some form of transitional arrangements to enable the planning function to operate in the meantime.
- 1.1.4 Both consultations seek comments on a number of set questions. These are set out in **Annexes 1 and 2** attached to this report together with some comments and suggested responses.
- 1.1.5 This report seeks approval of a response to both consultations by the deadlines to be agreed by the DPHEH in consultation with the Leader and Cabinet Member.

1.2 Changes to the Current Planning System

1.2.1 There are four proposals for changes to the current system for which views are sought:

- Revising the Standard Methodology for assessing Housing Need;
- Introducing the 'First Homes' initiative - a form of discounted market housing for first time buyers, key workers and local people;
- Extending the Government's Small Sites Policy - a temporary incentive for small to medium house builders by raising the threshold before developer contributions are required to 40 to 50 units; and
- Extending the concept of 'permission in principle' so that landowners and developers can secure the principle of development for housing on sites without having to work up detailed plans first.

Revising the Standard Methodology

1.2.2 The Government introduced a method of calculating housing need nationally when the National Planning Policy Framework was revised in 2018. It applies a formula based on household projections (revised every 2 years), past delivery rates and affordability. When originally introduced this had the effect of increasing Tonbridge and Malling's housing need by 23% or +159 dwellings per annum over and above our locally derived need.

1.2.3 As we submitted our Local Plan within the transitional window following the publication of the revised NPPF, once adopted our housing need will revert to the 696 per year in the Local Plan and with the new allocations in the Plan our 5 year housing land supply position will be restored. However, currently we are having to use the standard method for Development Management purposes. As of 31st March 2019 we have 2.6 years supply based on this calculation.

1.2.4 The consultants Lichfields have estimated what the implications would be for housing need figures for Local Authorities using the proposed revisions to the standard methodology. This generates an annual need of 1,440 units for Tonbridge and Malling. This is only an early estimation and is likely to change, for example as result of consultation responses, but if this remains the new housing need it will represent a doubling of the figure we currently have in the submitted Local Plan.

1.2.5 The reasons for this large number include the removal of the 40% cap and the greater role of affordability in the calculation. Another reason is the growth of households during the trend period for the projections. This explains why the figure for Maidstone is high (1,569) and the figure for Sevenoaks is comparatively low (820). Compared to our West Kent colleagues, we have enjoyed quite significant growth over recent years.

- 1.2.6 When the Standard Method was being consulted on in 2018 the Council raised the concern that such high numbers would not be deliverable and that this should be taken into consideration. Since 2018 the household projections upon which the method is based have been revised twice and in both cases (due to a downward trend in population growth) the overall number of dwellings being delivered in the country as a whole has dropped putting at risk the Government's aim of delivering at least 300,000 new homes a year.
- 1.2.7 The proposed revisions would restore the national target in England to over 300,000 once more, but how Local Authorities, particularly in London and the South East will be able to deliver such high numbers is less clear, especially as other proposed reforms in the Planning White Paper (removal of the Duty to Cooperate and a move to zonal planning growth/renewal/protection) seem to reduce those chances even further.
- 1.2.8 Kent's Conservative MPs, including those for Tonbridge and Malling have expressed their concerns regarding the scale of the increase in a joint letter to the Secretary of State and requested a meeting.
- 1.2.9 As noted, this is not an issue for the Local Plan because it was submitted under the transitional arrangements. Once the Plan is adopted, it is considered up-to-date for five years, by which point the review should be completed. This means that for at least five years from adoption the position in the Plan is considered to be up-to-date and the basis for judging housing land supply. However, when the Local Plan is reviewed it will have to be based on the new national planning system being introduced by these reforms. This will include planning for a level of housing need generated by the standard methodology.

First Homes

- 1.2.10 This initiative is a new affordable home ownership tool introduced by the Government effectively replacing the previous Starter Homes proposals.
- 1.2.11 The Government intends to set out in policy that a minimum of 25 per cent of all affordable housing units secured through developer contributions should be First Homes. This will be a national threshold, set out in planning policy. Initially these will be secured through section 106 planning obligations but, under proposed reforms, these would subsequently be secured through the new Infrastructure Levy. They will be made available to first time buyers, local people and key workers.
- 1.2.12 For the remaining 75% of affordable housing secured through developer contributions, there are two broad options:
- Option 1: Where a local authority has a policy on affordable housing tenure mix, that policy should be followed, but with First Homes delivering a minimum of 25% of the affordable housing products.

Option 2: A local authority and developer can negotiate the tenure mix for the remaining 75% of units.

- 1.2.13 Level of discount - The minimum discount for First Homes should be 30% from market price which will be set by an independent registered valuer. The valuation should assume the home is sold as an open market dwelling without restrictions. Local authorities will have discretion to increase the discount to 40% or 50%. This would need to be evidenced in the local plan making process.
- 1.2.14 An initial observation, as with the previous Start Homes proposal, is that this requirement will effectively reduce the ability of Local Authorities to provide truly affordable housing to those most in need as in areas like London and the south east a 30% discount of market value is still out of reach for most of those requiring affordable housing.

Small Sites Planning Policy

- 1.2.15 To encourage and support small and medium sized builders the Government proposes to introduce a temporary incentive by raising the threshold before developer contributions are required to 40 to 50 units, initially for a period of 18 months, to assist recovery from the Covid-19 restrictions.
- 1.2.16 This will undoubtedly help small and medium developers and potentially deliver more housing nationally in the short term, but it does raise a number of questions in terms of how infrastructure to accompany such developments will be funded in the absence of developer contributions, particularly in areas where a number of proposals at the upper end of the new threshold are made at the same time.

Extending Permission in Principle to major sites

- 1.2.17 The concept of Permission in Principle has been in place since 2018. It is currently restricted to minor development (up to 10 units) and usually applies to brownfield sites.
- 1.2.18 The Government proposes to remove the restriction in the current Permission in Principle regulations on major development. This will enable applications for Permission in Principle to be made for a far wider range of sites, enabling more landowners and developers to use this route to secure permission for housing development.
- 1.2.19 The existing restrictions in the Permission in Principle Regulations relating to Environmental Impact Assessment (EIA) and Habitats requirements will remain, reflecting the fact that Permission in Principle is granted on the basis of limited technical information and there is not sufficient environmental information for these requirements to be accurately assessed at the point of decision.
- 1.2.20 This means Permission in Principle by application will not in practice be a route to permission for large sites capable of delivering more than 150 dwellings or more

than 5 hectares – the EIA Regulations 2017 Schedule 2 threshold for urban development, save where a screening opinion has been obtained which concluded the proposal was not EIA development.

- 1.2.21 Similarly, Permission in Principle will not be suitable for sites in areas where, applying the Conservation of Species and Habitats Regulations 2017, there is a probability or risk that the project is likely to have a significant effect on a European site, unless the application was accompanied by an appropriate assessment demonstrating there was unlikely to be significant impact on the site.

So in effect, the proposal is to relax the current threshold meaning on suitable sites (e.g. brownfield sites) permission in principle could be extended for proposals of up to 150 dwellings or sites of up to 5 hectares. Views are sought.

1.3 Planning for the Future White Paper

- 1.3.1 The 84 page document includes Forewords by the Prime Minister and the Secretary of State, both of which are quite critical of the current planning system describing it as ‘outdated and ineffective’ and requiring ‘radical reform’.
- 1.3.2 Essentially the aim is to simplify and speed up the planning process for both plan making and development management. Some of the main proposals for achieving this can be summarised as follows:

A new approach to plan making

- Local Plans will in future focus on zoning, identifying areas for growth, renewal and protection, with growth areas having permission in principle for development (effectively outline planning permission);
- Local Plans to be accessible and web-based;
- A new single ‘Sustainable Development’ test to replace the current soundness and legal compliance tests;
- A new way to resolve cross boundary issues without the Duty to Cooperate (there are no proposals on what might replace this – views are sought);
- Housing requirements to be set nationally;
- New statutory timetable for preparing plans within 30 months;
- Views are sought as to whether Neighbourhood Plans should be retained in the new system;
- Whether there should be a stronger emphasis on the build-out of developments and if so what measures should be employed.

Development Management

- Development Management policies to be set nationally;
- Greater use of technology across the board, for engagement/consultations on plan making and planning applications;
- New settlements to be considered using the Nationally Significant Infrastructure Projects (NSIP) regime;
- Views sought on priorities for good design and sustainability for your local area;
- Proposed ‘fast track’ for ‘beautiful developments’;
- Proposal to replace CIL and S106 with a new Infrastructure Levy. Views are sought on whether levels should be set nationally or locally; whether the rates should be higher or stay the same; and should it be extended to changes of use through permitted development.

1.3.3 There are 26 set questions in all, some of which are sub-divided. The proposals only apply to England.

1.4 Summary and Conclusions

1.4.1 This report has summarised the main elements of the Government’s latest proposals for planning reform launched for consultation on 6th August.

1.4.2 A proposed response to the set questions for each of the two consultation exercises can be found in the attached Annexes for approval.

1.5 Legal Implications

1.5.1 There are no immediate legal implications arising from this national consultation exercise, but the Council should take the opportunity to raise any concerns arising from the proposed changes as potentially this could result in a completely new planning system in due course.

1.5.2 The consultations do not have any adverse implications for the Council’s emerging Local Plan. The Plan was submitted to the Secretary of State in accordance with the transitional arrangements attached to the revised NPPF in 2018 and the examination process will continue. Once the Plan is adopted it will represent an up to date plan until such time as it is reviewed.

1.6 Financial and Value for Money Considerations

1.6.1 There are no direct financial implications arising from this consultation. However, if the reforms are implemented as proposed there will be financial implications for the Council, which will need to be revisited at that time, for example, in terms of how developer contributions will function in the future.

1.7 Risk Assessment

- 1.7.1 There is a risk to the Council that its views and concerns will not be taken into account if the responses to these two consultations are not submitted by the published deadlines.

1.8 Equality Impact Assessment

- 1.8.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

1.9 Policy Considerations

- 1.9.1 The proposed reforms of the planning system could have significant policy considerations if and when they are finalised and implemented by Government.

1.10 Recommendations

- 1.10.1 That the content of this report be **NOTED** and that the DPHEH in consultation with the Leader of the Council and Portfolio Holder for Strategic Planning and Infrastructure **AGREE** and **SUBMIT** responses based on the attached Annexes and alterations as agreed by Members by the Government's deadlines of 1st and 29th October.

Background papers:

Nil

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