



REPORT of CHIEF EXECUTIVE

**to
PLANNING AND LICENSING COMMITTEE
16 NOVEMBER 2017**

PLANNING FOR THE RIGHT HOMES IN THE RIGHT PLACES

1. PURPOSE OF THE REPORT

- 1.1 This report sets out proposals from the Government for proposed reforms to the planning system and in particular the way new homes are planned and distributed. This forms part of the follow up to the Housing White Paper 2017. The closing date for comments was 9 November 2017, and these were submitted before the deadline with the caveat that the comments would be reported to committee and further representations may be made.

2. RECOMMENDATIONS

- (i) that the Committee's views are sought on the Planning for the Right Homes in the Right Places; and
- (ii) that the draft response is revised to take into account views of the Committee, approved by Officers in Consultation with the Chairman of the Planning and Licensing Committee and submitted as the Council's formal response to the Consultations.

3. SUMMARY OF KEY ISSUES

3.1 Background – The Housing White Paper

- 3.1.1 In February 2017, the Government published the housing White Paper: Fixing our Broken Housing Market. A report on the White Paper was made to this Committee on 25 April 2017 (Minute No. 1229 refers).
- 3.1.2 The aim of the White Paper is to set out how the planning system delivered through national policy, local plans and applications can be strengthened to speed up delivery of homes, and the role of developers and how they can be held to account. It proposes a number of changes to the National Planning Policy Framework (NPPF), and the consultation focuses on those changes.
- 3.1.3 A range of issues was identified which the Government contends if addressed will help speed up the delivery of homes and challenge developers and local authorities to meet demands and ensure adequate supply.

3.1.4 In particular the Housing White Paper set out four main areas where action is needed, as set out in Paragraph 2 of the Introduction to the new proposals:

- a) planning for the right homes in the right places - to make sure that enough land is released, that the best possible use is made of that land, and that local communities have more control over where development goes and what it looks like;*
- b) building homes faster – where communities have planned for new homes, ensuring those plans are delivered to the timescales expected;*
- c) diversifying the market – to address the lack of innovation and competition in the home-building market; and*
- d) helping people now – tackling the impacts of the housing shortage on ordinary households and communities.'*

3.1.5 The White Paper detailed certain proposals which would be subject to further consultation including:

- a) our proposed approach to a standard method for calculating local housing need, including transitional arrangements;*
- b) improving how authorities work together in planning to meet housing and other requirements across boundaries, through the preparation of a statement of common ground;*
- c) how the new approach to calculating housing need can help authorities plan for the needs of particular groups and support neighbourhood planning;*
- d) proposals for improving the use of section 106 agreements, by making the use of viability assessments simpler, quicker and more transparent; and*
- e) seeking further views on how we can build out homes more quickly.'*

3.2 The Consultation Proposals

3.2.1 The Consultation on Planning for the Right Homes in the Right Places focusses on the issues outlined in paragraph 3.1.5 above. It examines:

- a proposed approach to calculating the local housing need;
- the use of Statement of Common Ground between Local Planning Authorities (LPA);
- planning for the right mix of housing;
- neighbourhood planning and its role in meeting need;
- a proposed approach to viability assessments; and
- planning fees, with a proposal to add another 20% onto fees for well performing LPAs.

3.2.2 Set out below are the key elements of the Consultation Paper with reference to the relevant question/s as set out in consultation document and a summary of Officers comments.

3.2.3 Proposed approach to calculating the local housing need (Questions 1 to 6)

3.2.3.1 In the Housing White Paper the Government contended that the lack of a standard approach to calculating local housing need and this leads to delay, additional costs (estimated at £50,000 per LPA) and disputes. Planning to meet local need is at the very heart of the local planning system, and if not robust can lead to local plans being found unsound and speculative development. The Government propose a standardised national approach which would be ‘simple,’ ‘based on publicly available data,’ and ‘realistic.’

3.2.3.2 The proposed approach has three Steps:

Step 1 - Setting the baseline.

This should be undertaken using Office of National Statistics (ONS) projections for each LPA area, and based on 10-years average growth.

Step 2 – An adjustment to take account of market signals.

This is an adjustment by using a median affordability ratio to the baseline which takes account of migration and affordability. The Government have concluded that a 1% increase in the ratio of house prices to earnings above four is equal to a 1% increase in need above projected growth. Therefore, if the baseline was 100 dwellings per annum, but the average house prices were 12 times the local average earnings, the LPA would have to plan for 150 homes.

This approach is based on two key principles: that the maximum that can be typically borrowed is four times earnings and therefore, if there is a need to borrow more, building more homes will increase supply and affordability; and, where the affordability rate is high more homes need to be built.

Step 3 – Capping the level of increase

The Government propose to cap the level of increases in new homes. For LPAs with a Local Plan in place in the last five years (including Maldon) the cap should be 40% above the existing planning level. For Maldon this would be 280 pa + 40% or a total of 392 per annum (pa). For those without an up to date local plan the figure would be either 40% above the ONS assessment or the annual housing requirement assessment undertaken by the LPA whichever is the higher. Neither means that the Government will impose a maximum increase of 40%.

3.2.3.3 This methodology, the Government conclude, would increase current need by 266,000 homes nationally.

3.2.3.4 To illustrate the impact on each LPA, the Government published their own assessment of need based on this methodology alongside the consultation document. For Essex authorities this concludes that the following changes in local housing need could apply:

LPA	ONS Based	LPA own assessment	Change	% change
Basildon	1,024	972 to 986	+52 to +38	+5.6 to +3.85
Braintree	835	716	+119	+16.6
Brentwood	454	362	+92	+25.4

LPA	ONS Based	LPA own assessment	Change	% change
Castle Point	342	326 to 410	+16 to -68	+4.9 to -16.6
Chelmsford	980	805	+175	+21.7
Colchester	1,095	920	+175	+19.0
Epping Forest	923	514	+409	+79.6
Harlow	466	268	+198	+73.9
MALDON	302	280	+22	+7.9
Rochford	362	331	+31	+9.4
Southend	1,114	1,072	+42	+3.9
Tendring	749	550	+199	+36.2
Thurrock	1,158	1,381	-221	-16.1
Uttlesford	740	606	+134	+22.1
Source: Housing Need Consultation Data Table, Department for Communities and Local Government (DCLG) 2017				

3.2.3.5 The table above shows that Maldon's Objectively Assessed Need (OAN) would increase by 22 dwellings per annum or 7.9% over and above the OAN in the Maldon district Local Development Plan (LDP). However, Policy S2 of the LDP proposes a rate of 310 dwellings per annum, which is more than the DCLG's assessment. In addition, with outstanding planning consents, the Plan records a total supply of 5,108 dwellings during the plan period which is a rate of 340 dwellings per annum, comfortably above the DCLG assessment.

3.2.3.6 The table does illustrate the wide variations between authorities in Essex with all but Thurrock and potentially Castle Point showing an increase. However, these numbers are illustrative and as set out in paragraph 28 of the consultation document '*where there is a policy to substantially increase economic growth, local planning authorities may wish to plan for a higher level of growth than our formula proposes.*'

3.2.3.7 Where joint working between authorities is proposed, for example a shared Strategic Housing Market Area (SHMA), the Government propose that the total need to an aggregate of each of the individual areas assessment, but it would be for the relevant authorities to decide how the growth is distributed within the joint area. This currently does not apply to Maldon, which is its own SHMA area.

3.2.3.8 The Government also propose that the assessment of local need is valid for two years from the date of any submitted local plan. This is to ensure that there is validity to the figures during examination should there be a change in the base data. It is not clear that the Government are imposing a requirement on local plan Inspectors to not allow discussion on the figures if the base data changes. This should be clarified.

3.2.3.9 The Government also propose (in paragraph 46) that where a 'plan is based on an assessment of local housing need in excess of that which the standard method would provide, Planning Inspectors are advised to work on the assumption that the approach is sound unless there are compelling reasons that indicate otherwise'. To support this, the Government will use the Housing Infrastructure Fund (HIF).

3.2.3.10 The proposal is that the new approach should act as a baseline for calculating five year housing land supply (5YHLS). In the case of Maldon, the Council already bases its 5YHLS on the 310 dwellings per annum target in Policy S2 of the LDP.

3.2.3.11 The transitional arrangements proposed in the paper, indicate that in the case of Maldon, because the Council has an up to date plan in place the new arrangements will come into effect when the plan is reviewed.

3.2.3.12 Officers comments:

Whilst the proposal for a standardised approach to assessing local need is clear and welcomed, the use of standardised data effectively results in a baseline assessment which the LPA has no control over. The proposed approach, therefore, relies on how local conditions are taken into account, whether they are planning constraints or market conditions. In paragraph 44 the Government do state that ‘there may be compelling circumstances not to adopt the proposed approach. These will need to be properly justified, and will be subject to examination’. Where a methodology results in a lower need than the proposed approach, this ‘will be rigorously tested by the Planning Inspector through examination’ (paragraph 47).

Where an LPA is part of a joint SHMA area, agreement can be reached to distribute housing within that area to take account of constraints and/or market conditions. The Maldon’s case, which has its own SHMA, the duty to cooperate process will need to be used to distribute growth that cannot be accommodated locally.

The Government’s proposal to use work based earnings as the basis for any assessment is applied to affordable housing policy would have a negative impact for Maldon. In the District work based earnings are higher in Maldon than resident earnings, and therefore, a shift to work based earnings would reduce requirements for affordable homes, when in fact, the level of need based on resident earnings would be higher.

3.2.4 Statement of Common Ground (Questions 7 to 9)

3.2.4.1 The Government contend that the current duty to cooperate arrangements is not working effectively. Duty to cooperate (DTC) was introduced in the Localism Act 2011 and requires bodies to ‘*engage constructively, actively and on an ongoing basis to maximise the effectiveness of planning preparation in the context of strategic cross-boundary matters*’. Compliance with the DTC requirements I tested through examination.

3.2.4.2 The Government believes that the current approach has three problems:

- Lack of transparency or certainty at earliest stages in plan preparation;
- Cooperation is only tested at a late stage in the plan preparation process; and
- The duty is to cooperate, but not necessarily agree.

3.2.4.3 The Government propose that all LPAs should produce a Statement of Common Ground, which would have the objectives of:

- Increase certainty and transparency
- Encourage cooperation
- Create certainty in how cooperation should be approached and documented.

3.2.4.4 The Government propose that every LPA prepare a Statement of Common Ground. It should be for each LPA to determine what issues it covers. The statement should record where agreement has or has not been reached. There may be more than one statement of common ground and not all relevant authorities will need to sign each statement.

3.2.4.5 The Government proposes that Statements should be in place within 12 months of the publication of the revised NPPF. This will apply to all LPAs regardless of whether they have a local plan in place or not.

3.2.4.6 The Government does offer guidance on the contents of the Statements including;

- Within six months after the revised NPPF, the geographical area covered; key strategic issues being addressed; list of authorities; and governance arrangements; and
- Within 12 months process for agreeing the distribution of housing need and agreed distributions; record of whether agreements have been reached; and any other strategic cross-boundary issues.

3.2.4.7 To ensure that the new approach is happening, the test of soundness will be amended to include the requirement that plans should be prepared based on strategy informed by the wider area, and based on effective joint working on cross-boundary priorities.

3.2.4.8 Officers, comments:

These new changes mean that Maldon Council will need to maintain ongoing dialogue and involvements with other LPAs and public bodies and identify priority issues that these discussions should focus on. It will be required to publish a statement of common ground within the next 18 months or so.

3.2.5 Planning for a mix of housing needs (Question 10)

3.2.5.1 The Government is keen to ensure that the right mix of housing is delivered including for older and disabled people; families with children; affordable housing; custom and self-build; student accommodation; traveller who cease to travel; and private sector rented and build to rent. The Government is proposing that LPAs should *'disaggregate this total need into the overall need of each type of housing as part of the plan making process, before taking into account constraints or other issues which may prevent them from meeting their overall housing need.'* (paragraph 90).

3.2.5.2 The Government is also seeking views on whether the definition of older people set out in the NPPF is fit for purpose given the changing nature and range of housing available and choice. The Government feel that the definition below is still fit-for-purpose. The current definition is:

'People over retirement age, including the active, newly-retired through to the very frail elderly, whose housing needs can encompass accessible, adaptable general needs housing for those looking to downsize from family housing and the full range of retirement and specialised housing for those with support and care. (page 54 NPPF)'

3.2.5.3 Officer's comments:

The proposal suggest that before any consideration should be given to constraints within an area and how those constraints would impact the overall number of homes, consideration should be first given to how different types of mix could be achieved. The Council will need to ensure in future plans that mix of housing is addressed as well as achieving the overall assessed needs.

The current definition of older people encapsulates the intended function of the policy to differentiate between the needs of the elderly and the wider population.

3.2.6 Neighbourhood Planning (Question 11)

3.2.6.1 Although introduced in the Localism Act in 2011 and subject to a number of legislative changes since, the Government contends that there are a number of problems for groups wanting to prepare neighbourhood plans Paragraph 95):

- *'where there is an up-to-date local plan, some neighbourhood planning groups may not have been provided with a housing figure in the local plan as a starting point for developing their neighbourhood plan;*
- *where there is no up-to-date local plan, neighbourhood planning groups may need to employ external consultants to estimate housing need for designated neighbourhood plan areas. This can be costly for voluntary neighbourhood forums, and can discourage some communities from neighbourhood planning; and*
- *the housing need figure for the neighbourhood planning area can change during their plan's preparation, for example as the local planning authority prepares and adopts its own plan. This is out of the control of neighbourhood planning groups, and frustrates local communities.'*

3.2.6.2 The Government propose to amend national policy so that LPAs are expected to provide neighbourhood planning groups with a housing need figure where needed to progress with plan making. To do this, the Government propose *'to make clear planning guidance that authorities may do this by making a reasoned judgement based on the settlement strategy and housing allocations in their plan, so long as the local plan provides a sufficiently up-to-date basis to do so'*. Where this happens the Government do not expect the resulting housing figure to be tested in the neighbourhood plan examination.

3.2.6.3 Where a local plan is out of date, the Government also propose a *'simple formula-based approach which apportions the overall housing figure for the relevant local authority area/s, based on the latest figures calculated under the new standard approach [outlined above], to the neighbourhood planning area'*. This approach takes the population of the neighbourhood plan area as a percentage of the overall district population and the housing need for the area would be that percentage of the district overall need.

3.2.6.4 Officer's comments:

The implication of this approach is that a principal of neighbourhood plans – namely that there is local determinism of housing need – could be undermined, with a top

down approach using a national methodology and national data. However, the Government do stress in paragraph 100 of the consultation document that this approach provides a '*starting point*' and it will be for the neighbourhood planning groups to determine whether or not constraints prevent them from meeting that need.

3.2.7 Proposed approach to viability assessment (Questions 12 to 17)

3.2.7.1 The Government contends that viability assessments are complex and cause uncertainty and is seeking to introduce a simpler system.

3.2.7.2 The Government now propose that LPAs should set out in their plans the types and thresholds for affordable housing contributions; the infrastructure needed and expectations on how these will be funded and the contributions developers are expected to make. As far as Maldon is concerned, the LDP does clearly set out the affordable housing requirements and the infrastructure delivery plan sets out other requirements including the arrangements for funding. The forthcoming affordable housing Supplementary Planning Document (SPD) will add detail onto this.

3.2.7.3 However, the Government now propose that where the issue of viability has been tested through the local plan, it should not '*usually need to be tested again at the planning application stage.*' (paragraph 113).

3.2.7.4 Officer's comments:

The inclusion of the word usually in the Government's proposal opens the question up for consideration at the planning application stage. The Government should be clear what circumstances would require a re-examination of viability – for instance significant changes in market conditions which may render a scheme unviable.

The Government propose to introduce means by which viability assessments are made more transparent, simpler and easily understood is to be welcomed.

Likewise the Government propose that each LPA maintain a record and monitor all section 106 agreements, including how money collected is spent. This Council already has in place a monitoring system and six monthly reports are provided to this Committee and the Overview and Scrutiny Committee.

3.2.8 Planning fees (Question 18)

3.2.8.1 Earlier in 2017 the Government increased planning fees by 20% for those LPAs which committed to reinvest the increase in their planning services. The Government are now proposing a further 25% increase for those LPAs which are delivering homes their communities need. This is in recognition of the resource required by a LPA to support specialist skills or incurring additional costs.

3.2.8.2 Officer's comments:

This is to be welcomed. However, the Government should recognise that in order to achieve targets which meet need, there is a lead in time, during which the resources are considerable, often expanded, and during a period where there is no guarantee that

the targets can be met. Preference would be for an additional 20% increase where an up to date local plan is in place which demonstrates how the need can be met.

3.2.9 Other issues (Question 19)

3.2.9.1 The consultation also seeks views on other matters: including whether the range of measures set out in the Housing White Paper (including HIF, talking delays by the inappropriate use of conditions; addressing skill shortages; and holding LPAs to account through the housing delivery test (amongst others) could increase build out rates.

3.2.9.2 Officer's comments:

Whilst the interventions are generally welcomed it remains the case that a large portion of the focus of the Housing white Paper is the role and accountability of the local planning authority. The delivery of homes, including speeding up the process, remains the function of the LPA in partnership with developers and the accountability of developers should also be part of the Government's focus. Even where a LPA has an up to date local plan and can demonstrate a five year supply of housing land, delivery is primarily down to developers and there are major different forces at play which are outside the control of the LPA which affect delivery.

3.2.9.3 The Government intends to set out new policy on prematurity in the revised NPPF. This will provide that where plans are at an advanced stage *'being undermined by proposals that are allowed before the plan can be finalised. This would help provide stability and certainty in situations where confidence in the plan-making process might otherwise be weakened.'*

3.2.9.4 Officer's comments:

Whilst a policy on prematurity is welcomed where it strengthens a Council's ability to refuse permission, where properly applied this must be supported by the Planning Inspectorate in the consideration of appeals.

3.2.10 Next Steps

3.2.10.1 In addition the Consultation Document and the assessment of local need, the Government has also stated the intention as set out in the Housing White Paper that the Land Registry intends to publish a register of the ownership of all publicly held land by 2025. In those areas which the Government believe are of the greatest need, the Government is seeking to complete this task by 2020 and has published a schedule alongside the consultation document. Maldon is included on that schedule (as set out in Comprehensive Registration Programme: Priority Areas for Land Registration).

3.2.10.2 The Government propose that this new approach is set out in revision to the NPPF, due to be published in early 2018.

4. CONCLUSION

- 4.1 The Government's proposals are designed to provide greater certainty to the planning system and support LPAs in the preparation of plans. However, in some respects, particularly LPAs allocated housing targets to specific neighbourhood plan areas is contrary to the bottom up approach previously advocated.
- 4.2 The proposals will be considered as part of a review of the NPPF. When this is published in draft, the Council will need to consider its response, but also how the changes will affect the LDP and decision making. However, some of the proposals are issues which the Council has already dealt with in the LDP.

5. IMPACT ON CORPORATE GOALS

- 5.1 The preparation and adoption of the LDP, including supporting evidence and other supplementary planning documents, support corporate goals which underpin the Council's vision for the District and in particular protecting and shaping the District and balancing the future needs of the community and meeting the housing needs of the District.

6. IMPLICATIONS

- (i) **Impact on Customers** – Planning policy provides a framework which adds certainty to the type and appropriateness of development across the district. Local policy that accords with national policy strengthens the Council's ability to win appeals against speculative and inappropriate development.
- (ii) **Impact on Equalities** – Planning policy documents, including new regulations and policy documents prepared by the Government, are subject to equality analysis.
- (iii) **Impact on Risk** – Up to date planning policy and a five year supply of housing land is required in accordance with the National Planning Policy Framework in order to enable the Council to strategically plan for future needs, growth and sustainable development. The implementation of new legislation will need to be taken after consideration of the risks for the Council and stakeholders.
- (iv) **Impact on Resources (financial and human)** – Any significant change in policy direction would be likely to require additional work or alterations to the evidence base which may have significant financial and human resource implications for the Council.
- (v) **Impact on the Environment** – Up to date planning policy and a five year supply of housing land will enable the Council to promote sustainable development and safeguard the local environment in accordance with the local priorities for the District.

Background Papers:

Planning for the Right Homes in the Right Places – DCLG 2017

<https://www.gov.uk/government/consultations/planning-for-the-right-homes-in-the-right-places-consultation-proposals>

Includes access to the Housing Need Consultation Data Table and Comprehensive registration programme: priority areas for land registration

Housing White Paper <https://www.gov.uk/government/collections/housing-white-paper>

National Planning Policy Framework <https://www.gov.uk/government/publications/national-planning-policy-framework--3>

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