

# Planning Committee

09 October 2020

Agenda item number 10

## Consultation from MHCLG- Planning for the Future White Paper

Report by Head of Planning

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### Summary

The Planning for the Future White Paper proposes major reforms to the operation of the planning process. The document is bold in its aspiration and objectives, but lacking in detail. The vision of the role of planning presented is not incompatible with the proposed reforms, but changes are needed if this is to be met. The key issues to be addressed are around engagement, the retention of the ability of LPAs to make locally relevant policies and, through the national reforms, the embedding of the climate and biodiversity emergencies at the centre of the planning process.

### Recommendation

That the comments are noted and the proposed response is submitted to MHCLG as the formal response of the Broads Authority.

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## Contents

1.	Introduction	2
2.	Overview of the White Paper	3
	Rationale	3
	Pillar One: Planning for development – focussing on local plans and decision-making	3
	Pillar Two: Planning for beautiful and sustainable places – focussing on design, environmental impacts and climate change	6
	Pillar Three: Planning for infrastructure and connected places – focussing on the infrastructure levy	7
3.	Commentary	8
	Pillar One: Planning for development – focussing on local plans and decision-making	8
	Pillar Two: Planning for beautiful and sustainable places – focussing on design, environmental impacts and climate change	11

Pillar Three: Planning for infrastructure and connected places – focussing on the infrastructure levy	13
4. Delivering change and next steps	15
5. Conclusion and recommendations	16
Appendix 1 –Proposed response of Broads Authority	17
Summary of main comments	17

## 1. Introduction

- 1.1. On 6 August 2020 the Government published their ‘Planning for the Future’ White Paper for consultation. The document may be accessed from the following link: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/907647/MHCLG-Planning-Consultation.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/907647/MHCLG-Planning-Consultation.pdf). The consultation deadline is 29 October 2020.
- 1.2. The White Paper proposes radical and wide-ranging reforms to the planning system "to streamline and modernise the planning process, bring a new focus to design and sustainability, improve the system of developer contributions to infrastructure, and ensure more land is available for development where it is needed."
- 1.3. The White Paper has five keys strands:
- Streamlining the planning process “with more democracy taking place more effectively at the plan making stage”
  - Taking a radical, digital-first approach “to modernise the planning process, moving from a process based on documents to a process driven by data”
  - Bringing a new focus on design and sustainability
  - Improving infrastructure delivery and ensuring developers play their part, through reform of developer contributions
  - Ensuring more land is available “for homes and development that people and communities need”
- 1.4. It sets out 24 proposals which are organised under three ‘pillars’, with a series of questions relating to each proposal. The pillars are:
- Pillar 1: Planning for development – focussing on local plans and decision-making
- Pillar 2: Planning for beautiful and sustainable places – focussing on design, environmental impacts and climate change
- Pillar 3: Planning for infrastructure and connected places – focussing on the infrastructure levy

- 1.5. This report will set out a summary of the White Paper and provide a commentary on some of the key issues. It will then recommend a response relating to the 24 proposals, as relevant.
- 1.6. Members should be aware that the commentary and responses recommended will relate primarily to the impact of the White Paper's proposals on the Broads, both as an area and as a Local Planning Authority (LPA).

## 2. Overview of the White Paper

### Rationale

- 2.1. There is justification for the proposed changes throughout the White Paper, both in terms of the overall approach and in relation to many of the individual changes. The main justifications put forward in the document relate to the 5 key strands identified at 1.4 above, and can be summarised as follows:
  - The current planning system is too complex, with too much uncertainty and delay. This applies to both plan-making and development management processes.
  - Decisions are based on 'discretion' (i.e. a judgement against policy) rather than rules based, so are not transparent. There is a lack of public trust in the process.
  - There is insufficient use of modern technology and a reliance on paper based-documents.
  - The system does not encourage beauty or quality of development, nor does it create the vibrant and diverse communities which are needed.
  - The system does not deliver enough homes.

### Pillar One: Planning for development – focussing on local plans and decision-making

- 2.2. Plan-making underpins the whole planning system and the White Paper identifies and proposes this as an area for major change, in order both to simplify and speed up the process. It becomes the central part of the system, where the main public engagement takes place and where the key decisions on location, scale and type of development would be made. It is proposed to extend the scope of plan making so that, unlike under the current system, the Plan would actually grant planning in principle for some development types, as well as simplify the application process for others.
- 2.3. A simplified system would see all land categorised into one of three areas, with different implications for their development and the subsequent processes:

Area	Scale of development	Approval process
Growth Areas	Suitable for substantial development. LPA and/or developers encouraged to produce Masterplans, which would effectively form the basis of the permission. Can include suitable development uses, as well as limitations on height and/or density. LPAs to require mix of developers in schemes in Growth Areas, to better enable SMEs to contribute to regeneration and growth. Areas should also be specifically identified for self and custom-build homes, and community-led housing developments.	Outline approval for development would be automatically granted for forms and types of development specified in the Plan. Use of Local Development Orders to create local Permitted Development Rights.
Renewal Areas	Smaller areas, which might be urban or rural, and town centres and rural areas not identified in the other categories. Could cover existing built up areas as well as greenfield sites. 'Gentle densification' and infill. Can include suitable development uses, as well as limitations on height and/or density.	Statutory presumption in favour of development being allowed for the uses specified in the Plan. Use of Local Development Orders or Neighbourhood Development Orders to create local Permitted Development Rights. Prior Approval type process for certain building types.
Protected Areas	Areas covered by existing designations where stronger controls on development would be applied. Identified in the Plan, Protected Areas would also include areas identified as locally important because of, for example, cultural characteristics or an important view.	Either application-based or presumption in favour where criteria in Plan met.

2.4. The Plan would identify the areas suitable for Growth, Renewal or Protection status in order to meet a range of development needs such as homes, businesses and community facilities for a minimum period of 10 years.

2.5. The plan making process would be simplified, with a statutory 30 month timescale:

Stage 1	LPA calls for suggestions for areas under the three categories and for ways to achieve public involvement at this plan-shaping stage for where development should go and what it should look like.	6 months
Stage 2	LPA draws up proposed Plan, plus evidence to justify proposals	12 months
Stage 3	Submission of Plan to Planning Inspectorate (PINS) with statement of reasons and, simultaneously, publication and consultation with public.	6 weeks
Stage 4	Examination against 'sustainability' statutory test and national guidance by PINS, plus Examination.	9 months
Stage 5	Finalisation of Plan and adoption.	6 weeks

- 2.6. In respect of housing, the standard methodology for numbers and distribution would be set nationally, taking account of local factors. This methodology is currently the subject of a separate consultation (Changes to the current planning system – August 2020) which was presented to the Planning Committee at their September meeting. Higher levels of housing would be proposed for areas of high unaffordability in order to boost supply, whilst in areas where demand is greater than supply this would be factored into calculation of the housing requirement. The LPA would determine through the Plan how to meet the need and the Housing Delivery Test would be retained to monitor this.
- 2.7. The existing test of soundness would be abolished, to be replaced by a statutory 'sustainable development' test. The duty to co-operate would be also be abolished, and requirements for environment and viability assessment updated.
- 2.8. Neighbourhood Plans would be retained.
- 2.9. The fundamentally different Local Plan, with its identification of what development is allowed and where, would reduce the need for a development management process. In Growth Areas, identified development would be automatically granted outline permission, whilst in Renewal Areas there would be a statutory presumption for certain types of development. In both these areas, this identification process and the use of Reserved Matters to agree details and Local Development Orders, Neighbourhood Development Orders and Prior Approval-type processes would result in most development being effectively agreed at the Plan stage. In Protected areas, the current system of application to the LPA would continue.
- 2.10. Development Management policies would be set out nationally in a revised National Planning Policy Framework (NPPF), and the Plan should contain only site or area-specific requirements, including broad height limits and scale and/or density limits for land included in Growth and Renewal areas.
- 2.11. Determination timescales would become binding, with permission by default if not met and/or fee refunds (including where appeals allowed), in order to speed up decision making.

- 2.12. Throughout the White Paper there is a strong emphasis on the role of technology in making the planning process simpler, quicker and more accessible. Plans should move away from being paper and document based to web-based interactive maps so users can click on an area and see what would be allowed. A standard 'model' template for Plans is to be developed, which will be primarily map based with text limited to spatially-specific elements only.
- 2.13. Plans and policies should also be machine readable so that with increased digitisation, standardised technical information (e.g. on flood risk) and the automation of some processes, some applications would be able to be determined automatically.

### **Pillar Two: Planning for beautiful and sustainable places – focussing on design, environmental impacts and climate change**

- 2.14. In the Overview to Pillar 2, the White Paper states that “planning should be a powerful tool for creating visions of how places can be, engaging communities in that process and fostering high quality development: not just beautiful buildings, but the gardens, parks and other green spaces between, as well as the facilities which are essential for building a real sense of community”.
- 2.15. To improve standards of design, the Government is to produce National Model Design Code (autumn 2020) setting out design parameters to complement Principles in National Design Code (October 2019), along with revised Manual for Streets. This should be the basis for promoting good design and place making through planning.
- 2.16. It advises that LPAs should develop these locally and prepare design guides and codes which reflects local character and preferences, to avoid the creation of 'anywhere-ville' communities. These should be built on empirical evidence and developed through local engagement and will supplement the Plan.
- 2.17. Government will also develop “a limited set of form-based development types” which would benefit from permitted development rights, but with prior approval needed for details (e.g. materials) so they can be adapted to local contexts, or LPAs could modify them through local orders. All streets are to be tree lined.
- 2.18. In Growth Areas, masterplans and design codes should be part of permission in principle and can be prepared by LPA or site promoter. In Renewal Areas particularly, homes built in accordance with 'pattern book' rules could be covered by permitted development rights (for example, using a Local Development Order) and these and other scheme which meet local design codes should be fast tracked to approval.
- 2.19. A new body would be established to support the delivery of design codes across the country and each LPA should have a design champion.
- 2.20. The White Paper advises that historic buildings should play a part in renewal of built up areas (urban and rural) and have better energy efficiency performance. They will need to adapt to challenges and there will be a review of the listed building and conservation areas framework, to consider how to both conserve and adapt. The Government will

also consider new framework for consenting certain contractors to do certain works under an 'exemption'.

- 2.21. The Government also proposes to amend the NPPF to ensure that planning can promote mitigation and adaptation to climate change, maximise environmental benefits and contribute to net biodiversity gain.
- 2.22. Looking at the wider environmental issues, there will be a quicker, simpler framework for assessing environmental impacts and enhancement opportunities, "that speeds up the process while protecting and enhancing the most valuable and important habitats and species in England." It is proposed that this will be achieved mainly by doing it at the Plan making stage.
- 2.23. In order to address climate change, from 2025, homes will be carbon ready and with 75-80% lower CO2 emissions compared to current levels. The White Paper advises that LPAs have responsibility in this and have a role to play in setting energy efficiency standards.

### **Pillar Three: Planning for infrastructure and connected places – focussing on the infrastructure levy**

- 2.24. The current system for securing contributions from developers and capturing uplift in land values in order to fund public services and infrastructure is either through the s106 mechanism or by the Community Infrastructure Levy (CIL). The White Paper details the problems with these approaches, which are primarily uncertainty and delay, but confirms commitment to the principle of the mechanism of developer funding stating that it is "central to our vision for renewal of the planning system".
- 2.25. It proposes the replacement of all existing contribution mechanisms with a nationally set levy to be charged as a fixed proportion of the development value above a threshold, with a mandatory nationally-set rate or rates at either a single rate, or at area specific rates. The current system of planning obligations would be abolished. The scope of the Infrastructure Levy could be extended to capture changes of use through permitted development rights.
- 2.26. Ambitiously, the government intends this new levy to "raise more revenue than under the current system of developer contributions, and deliver at least as much – if not more – on-site affordable housing".
- 2.27. It also proposes to extend the levy to include affordable homes, or land for local authority to build itself, and include mechanisms to incentivise provision.
- 2.28. It also proposes to widen the scope of the spend of the infrastructure levy to other council priorities, e.g. reducing council tax or green infrastructure.
- 2.29. The cost of operating the new planning system should be principally funded by the beneficiaries of planning gain – landowners and developers – rather than the national or local taxpayer. This will include allocating some 'gain' for local plan work.

- 2.30. The White Paper also wishes to see LPAs place more emphasis on the enforcement of planning standards and decisions.

### 3. Commentary

- 3.1. In considering the commentary, it is worth remembering that this is a White Paper and, as such, it sets out proposals for future legislation. Much of the detail which will be required to enact the proposals (and which would be in the legislation) is absent, which makes it harder to comment as the detail will be important in terms of both the operation and effect of the new system. It is also a consultation, so some elements are likely to change and one of the messages from MHCLG in the webinars about the White Paper are that they would welcome ideas on things to consider as well as details as they progress the proposals.
- 3.2. It is also worth remembering that there has been considerable and significant change to the planning system over recent years, most of it incremental. The abolition of regional planning, the streamlining of national policy into the NPPF, changes to Local Plans through duty to cooperate, the soundness test and alterations in housing policy, Neighbourhood Planning and a stream of Written Ministerial Statements have altered the planning policy landscape, whilst major extensions to Permitted Development Rights and Prior Approval processes have taken many forms of development out of the planning approval processes altogether.
- 3.3. It is unarguable that the system has become more complicated. The proposals in the White Paper are unequivocally intended to dismantle the system and replace it with a simpler and clearer system, which “will speed up the plan-making and decision-making process, improve public participation and deliver better quality development in the places it is needed”.
- 3.4. This commentary will consider the key messages and proposals, discuss the main implications for the Broads and recommend what response should be made.

#### **Pillar One: Planning for development – focussing on local plans and decision-making**

- 3.5. The ambition to speed up the Plan making process is welcome (and the statistic that only 50% of LPAs have an up-to-date Local Plan explains the aim), however any proposed timeline must be realistic and provide opportunity for meaningful public engagement at the appropriate stages. The statutory 30 month timeline proposed (see 2.5 above) is doubtlessly challenging as it will need to include the identification of the three generic areas (Growth, Renewal and Protection), the patterns of acceptable land use in those areas, the necessary infrastructure to support that development, as well as the scale, form and design of the development. The work on the three generic areas will need to happen more or less simultaneously, and has the potential to be technical, overwhelming and confusing for stakeholders. This would limit participation. Further, our experience is that the general public in particular tend to respond more readily to local proposals where they can see the details, so consultation on high-level



'allocations' may not maximise engagement. Furthermore, if Stage 1 becomes the only stage of engagement before submission, as proposed, there is the potential for disenfranchisement and disconnect, or challenge further down the line when the details become clear. Given the radical nature of the changes proposed to the system, and the scale of development it is designed to bring forward, it is essential that communities are engaged and able to influence the plans in a meaningful way. There is a lot of benefit in frontloading the system, but the consultation needs to be relevant and engaging. The importance of this is further reinforced by the fact that, under the proposals, much development would in effect be automatically consented on adoption of the plan. It is unclear therefore how the proposal would address the problem which has been identified in the White Paper that there is a lack of public trust in the process.

- 3.6. There is no detail on the mechanism by which land would be separated into one of the three identified categories – Growth, Renewal and Protection – or what the parameters for these would be or from where they would be derived. If they are derived locally this could result in considerable inconsistency. This is important because there is no mention in the White Paper of strategic or cross-boundary planning, other than the removal of the duty to cooperate. Significant infrastructure will be required to support the Growth category due to the scale of the development, for example, whilst the identified Protected Areas of one LPA may need to be recognised by its neighbours. Currently the strategic element is dealt with through the statutory duty to cooperate and the S17(a) duty in the Norfolk and Suffolk Broads Act 1988 requires adjacent authorities to take account of National Park purposes (which includes the Broads) in decision making. A weakening of either duty risks undermining public benefits, including that arising from development, and jeopardising necessary collaboration.
- 3.7. Given the growth agenda context in which it is made, the rationale for the three land use groupings (Growth, Renewal and Protection) is understood, however actual land use is usually complex and the categories seem simplistic. Protected landscapes (including National Parks, the Broads and AONBs) currently comprise 26% of UK land use and it is proposed that areas of open countryside outside of Growth and Renewal Areas can be designated a Protected Area. Unless it is proposed that they will have the same status, there will need to be a mechanism to distinguish between nationally designated landscapes and those identified locally as Protection Areas.
- 3.8. One of the main themes is the need to increase housebuilding, with the proposal to use a nationally set methodology for calculating need and a target of 337,000 new homes per annum. Concurrent to this consultation is the consultation 'Changes to the current planning system (August 2020)' which covers the new methodology; this was considered by the Planning Committee at their September meeting. Concerns were raised then about the proposed new methodology and, particularly, the implications for a very significant increase in targets locally and the consequent need to identify less suitable sites, plus increased recreational (and other) pressures on the Broads. Currently some of the Broads' housing need is met outside of its area through the duty to cooperate, but this may become harder to achieve if the Districts' targets increase

significantly, resulting in either unmet need or a pressure to allow develop on less suitable sites within the Broads. This will be exacerbated by the removal of the duty to cooperate.

- 3.9. It is unclear whether and how a standard methodology and the housing delivery test will apply to the National Parks and the Broads, especially as a mechanism to address affordability and/or supply. These tests do not currently apply to the Broads and National Parks. The approach of increasing allocations as a means to increase delivery and improve affordability is over simplistic, with the Letwin Review (2018) finding that build-out rates are largely determined by market absorption (where price is only one element), and does not promote the levelling up agenda. Historically housing has been restricted in these areas (most recently under footnote 6 in the NPPF) in recognition of the special character of the areas and the White Paper recognises that “National Parks are highly desirable and housing supply has not kept up with demand; however, the whole purpose of National Parks would be undermined by multiple large-scale housing developments so a standard method should factor this in.” (page 32). There is a clearly a tension here, in that if the market were to absorb more housing in the National Parks and Broads, it would undermine the value of the designation. If the objective is to improve affordability and meet demand, both of which are laudable aims, there are better and more local ways of doing this. This could include identifying and prioritising demand for housing, so that development which supports and sustains local communities takes preference over that aimed primarily at well-resourced incomers, which accelerates the growth in prices. NPAs have a proven track record of using a rural exceptions site type approach to provide housing in their areas to address local need, and this would not fit well in either the Growth or Renewal model. It is also an approach which can secure local support, as the communities benefit from the development, as well as being flexible in application and potentially more attractive to SMEs.
- 3.10. The White Paper is right to identify housing as one of the key challenges for a reformed planning system, but creation of sustainable places, whether new or ‘densified’, needs to be developed locally and a ‘one size fits all’ approach does not seem appropriate. There are existing models and approaches which have worked well within the National Parks and Broads and there is much merit in using these.
- 3.11. The White Paper reaffirms the Government’s commitment to Neighbourhood Plans as an important component of the planning system, but there are no details on how these would relate to the Local Plan or the process for their preparation. It would be very challenging for Parish Councils and/or other Neighbourhood Planning groups, who are typically volunteers, to resource and undertake the process identified for LPAs, especially with the strong emphasis on frontloading, engagement and digital access. There is also a question around the role of and need for a Neighbourhood Plan if the community are fully engaged in development of the Local Plan.

- 3.12. There is a strong emphasis in the White Paper on the use of technology in plan-making and the provision of interactive maps and web-based material. This is welcome in principle and offers the opportunity to present material in innovative and flexible ways and engage with a wider audience. The Covid-19 pandemic has driven a change in the way in which we all communicate, and there are many benefits to the new methods, but it is very important to remember that not all groups and areas are able to access digital technology easily. There is currently a statutory requirement to set out in the Statement of Community Involvement (SCI) how an LPA has engaged with 'hard to reach' groups and it will be important not to create new barriers to participation.
- 3.13. The NPPF has been a useful approach to setting a national policy context, with technical guidance and interpretation in the supplementary National Planning Policy Guidance (NPPG). Nonetheless, there are many local issues which are not covered by the NPPF and which need, therefore, to be set out in a Local Plan. In the Broads this has included policies on residential moorings, protection of peat and the provision of public moorings within commercial development. The proposal to provide a national set of development management policies will limit the ability of an LPA to address local issues and, in addition to raising contradictions with the goal of place making, this conflicts with the objective to involve local communities in the process. It will also introduce uncertainty as there will not be a policy framework against which to judge such proposals with its local characteristics.

### **Pillar Two: Planning for beautiful and sustainable places – focussing on design, environmental impacts and climate change**

- 3.14. The White Paper has a very strong emphasis on quality of new development and improving design, and this is wholly welcome. It proposes to do this through the use of masterplans for Growth Areas, guided by a National Model Design Code and pattern books. This approach can be appropriate for large scale development, but is of less use at the smaller scale where local context is a primary consideration. The Broads and other designated areas, particularly Conservation Areas, are identified and protected precisely because of their special character and there is potential for this to be undermined by generic development, even if it was designed for the Broads. This is easily illustrated by contrasting the forms of riverside development in Horning, where the smaller bungalows upstream give way to 1½ and then 2 storey properties as the river approaches Horning Corner, after which the character again changes to a much more mixed and dense pattern of commercial and holiday properties, moorings and an abundance of dykes, before becoming more open again towards the downstream end of the river. Whilst guidance could be provided on typical form and materials, it would be difficult to produce a pattern book for the Broads which offered designs which would fit in anywhere.
- 3.15. The same concerns apply in respect of the proposals to extend permitted development rights to “a limited set of form-based development types” devised nationally.

- 3.16. It should also be noted that good development comprises more than just approved design and there needs to be a mechanism to cover the myriad of other factors, which might include access, flood risk and neighbour amenity. These can be identified and addressed in a masterplan for a Growth Area, or considered when making an 'allocation' of a Renewal Area, but a different process is required when dealing with small scale and windfall development, which in areas like the Broads, makes up the majority of the schemes that come forward. This consideration is not fully recognised.
- 3.17. One of the key drivers for the use of design codes approach is to enable development to be in effect automatically approved at the allocation stage in Growth and Renewal Areas, and approved in principle subject to conformity with the design code elsewhere. The purpose of this is to speed up approvals by reducing the need for a development management process. This would be the main change to the system, in that the 'rules' are set in the masterplan or design code and the role of the development management process would be simply to confirm compliance with the codes. This has implications for community involvement, in that the only input would be at the 'allocation' and design code stage (stage 1), and there would be a reduced role for Councillors and Planning Committees in determining planning applications.
- 3.18. The White Paper is clear in its ambition to make planning more about place-making and less about process and this is welcome. However, a 'one size fits all' approach based on master planning for significant schemes will not transfer readily to smaller sites, particularly in rural areas, where caution needs to be exercised. Furthermore, looking at design, the idea of a locally-developed design code is in principle attractive, but views on design can be very personal and vary widely, so the achievement of local consensus on such a code may necessarily result in the triumph of the lowest common denominator. It has been suggested that, instead, this might be better approached as a 'framework for quality' which sets expectations of what will be accepted in particular areas and reflecting community preferences.
- 3.19. The White Paper lacks detail on many of the proposals, but this absence is most apparent for the areas of heritage and environment. The White Paper is critical of the level of detail currently required within the system, arguing that "Assessments of housing need, viability and environmental impacts are too complex and opaque ... (they) add complexity and bureaucracy but do not necessarily lead to environmental improvements nor ensure sites are brought forward and delivered..." (p12). It specifically identifies Strategic Environmental Assessment (SEA), Sustainability Appraisal (SA) and Environmental Impact Assessment (EIA) as leading to duplication and "overly-long reports which inhibit transparency and add unnecessary delays."
- 3.20. It is accepted that a high level of information, some of it very specialised, is required within the planning process, but this is because plan-making and decision-taking on development is based on facts. These will include details of the site including flood risk, environmental designations and sensitivities and, potentially, matters such as highway capacity and air quality. Currently, different levels of information are required at

different stages of the process. For example, SEA is undertaken at the early plan-making stage to screen out sites which are unsuitable for development on environmental grounds, whilst EIA is done at an application stage to drill down to the specific impacts of a specific proposal. These processes should be complementary, not repetitious. Removing the requirement for this information on the grounds of speeding up the process will often mean that it will need to be provided at another time and simply pushes it down the line. There is also a concern that if the information requirements are reduced, this will result in ad hoc impacts, particularly on the environment, which are unplanned and difficult to resolve or mitigate.

- 3.21. Finally, Pillar 2 sets out the approach by which the new planning system will assist with mitigation and adaptation to climate change. At 267 words it lacks details, but the document explains elsewhere that the planning regime will tie in with the 25 Year Environment Plan and the draft Environment Bill to achieve environmental benefits, as well as setting an aspiration for 'net gain' from all development rather than simply 'no net harm'. The policies to achieve this will be set out in the amended NPPF and the Local Plan will address area-specific issues only, although this could include identification of areas for, for example, habitat recreation. If the Government is really serious about addressing the climate and biodiversity emergencies, the reform of the planning system is an opportunity to make genuinely transformational change in the way in which land use is planned and ensure that the radical measures which are required are embedded in the legislation as a statutory minimum. Both the Environment Plan and the Environment Bill have the development of Nature Recovery Networks at their centre and the links with the White Paper and, in future, with the amended NPPF presents the mechanism to enact this. Referring back to the point at 3.20, this illustrates the need for adequate information to support development proposals in order that the baseline is clear.

### **Pillar Three: Planning for infrastructure and connected places – focussing on the infrastructure levy**

- 3.22. Pillar 3 focuses mainly on the replacement of S106 and CIL with a new payment regime, called, unsurprisingly, the Infrastructure Levy, which is proposed to be quicker and simpler to administer, with more consistency and buoyancy so it can respond to changes in development values. It is agreed that s106s can take time to negotiate, however if they are started early in the process and the principles agreed between the parties, they need not impact significantly on determination times.
- 3.23. One of the reasons they need to be negotiated on a case by case basis (unlike CIL or the new levy) is that they relate to a particular development, however this is an advantage as it allows discretion and flexibility in response to particular circumstances, as well as allowing an LPA to include non-financial requirements. Open space, for example, is usually dealt with via S106. There will also always be a need to document trigger points for payments and other obligations, so even with a standard levy there is still need for negotiation and a formal agreement.

- 3.24. Due to the type of development we deal with in the Broads, the LPA rarely uses S106s, however in recent years a financial contribution to the provision of offsite affordable housing in Great Yarmouth was secured through the Marina Quays scheme, as well as significant financial contributions to community projects and open space at Ditchingham Maltings. Both of these have uplift clauses so that additional monies can be secured if the development values increase. There is also a boatyard and public moorings required by S106 on the Pegasus at Oulton Broad. None of this could have been achieved under a simple levy, or other than by S106 or similar process.
- 3.25. The Broads Authority is amongst the 50% of LPAs that did not adopt CIL. Partly because the Broads does not have the level of development to justify it, but also because CIL is complicated and time consuming to calculate, consult on and adopt, with all the discussions about land and development values taking place up front. There may be an argument for replacing CIL with a nationally set formula, and this may be the most efficient model for volume housebuilders on standard sites with known constraints and agreed infrastructure requirements, but this does not mean that there is no place for a locally negotiated agreement in the form of a S106.
- 3.26. The proposal to extend the infrastructure levy to schemes which come forward under permitted development rights is welcome, and important too given the very significant extension of these rights and the burden this places on local facilities. This should also apply to Prior Approval schemes which generate significant new development. The ability for LPAs to have more options over what they fund through the levy, which could include affordable housing, is also welcome.
- 3.27. The White Paper states the “cost of operating the new planning system should be principally funded by the beneficiaries of planning gain”. Government has previously explored a ‘cost recovery’ approach to development management, including locally set fees, but has not pursued this. Certainly there is an argument that costs should be borne by the applicant or developer as the principal recipient of any financial uplift, however, society as a whole also benefits from a strong planning system which should be (and be seen to be) about more than land value and housebuilding. The funding mechanism, however, will need to be fair and it must be recognised that there will be less development which generates fees in the protected landscapes, but the plan making and other requirements are the same.
- 3.28. It is clear that such significant changes will require a range of new skills, and a potentially re-assignment of roles within planning departments across the country. The front-loading of the system places a greater emphasis on plan-making and engagement. The White Paper recognises an imbalance in resources where the level of development is likely to fall significantly short of drawing in the income necessary to resource a planning department. It is important this detail is addressed.
- 3.29. Finally, the White Paper emphasises the importance of enforcement in planning. This will become much more important if development is consented automatically through,

for example, Growth Area status or design codes, subject to its being in accordance with the 'rules' as compliance will need to be checked. This will require resourcing.

## 4. Delivering change and next steps

- 4.1. The White Paper concludes with two final sections – 'delivering change' and 'what happens next'. The latter is primarily a statement of intent, reiterating the commitment to a reform of the planning system, subject to the outcome of the consultation, and advising of the ambitious implementation timescale of the end of this Parliament (December 2024).
- 4.2. The preceding 'delivering change' section, however, sets the proposed reforms within the context of other changes, including the parallel consultation on 'Changes to the current planning system (August 2020)', changes to the way public assets and investment are handled and supporting innovation through, for example, greater use of development corporations. It then goes on to outline in more detail what the reforms will mean for planners and LPAs.
- 4.3. It acknowledges explicitly the scale of the change that is required, stating:

“The preparation of reformed Local Plans, development of new design codes, a major overhaul of development contributions, and a new streamlined approach to decision-making will have profound implications for how local planning authorities operate in future. They will need to have sufficient leadership, a strong cadre of professional planners and good access to technical expertise, as well as transformed systems which utilise the latest digital technology. But equally importantly, there must be a fundamental cultural change on how planning departments operate. They need to be more outward looking, proactively engaging with developers, businesses, architects and designers, as well as a wider cross-section of their local communities”.
- 4.4. The recognition of the scale of the change is welcome, as is the acknowledgement of the impact on LPAs and the cultural shift that will be required if the reforms are to be delivered. The 'delivering change' section also, however, remarks that:

“...we know that local authority planning departments are under great pressure – with spending per person on planning and development down 60 per cent and shortages of specialist skills such as design and ecology. And the technology in local planning authorities to support modern services is not there – whilst PropTech firms are developing new apps and other digital services to engage with development in new ways, in few places can this be captured by the local authority ...”
- 4.5. The importance of the need to provide planners and LPAs with the resources they will require if they are to implement the proposed reforms cannot be overstated.

## 5. Conclusion and recommendations

- 5.1. The reforms proposed are ambitious and the objectives on which they are based are sound, in the main. The proposals lack detail, which limits productive comment (and raises concern) and the singular focus on housing significantly diminishes the scope of the vision. The commitment made by the Government to address the climate and biodiversity emergencies – which are land use-led, and can be challenged through land use – is side stepped.
- 5.2. These criticisms notwithstanding, there are bold ideas in the White Paper and it offers an opportunity to have a modern conversation about planning and what it is for.
- 5.3. The planning system exists to manage and control land use. For many years now, it has sought to do so through the lens of sustainable development; considering the environmental, social and economic dimensions of decisions, in both a proactive and reactive way. It exists to mediate and manage competing interests. It aims to act in the greater good: drawing on evidence, and considering people's views and interests in an open and democratic way. In doing so, it should act neutrally and independently, not influenced by personal or financial interests. It seeks to address market failure, recognising where the market cannot or will not deliver, and where intervention is needed to protect the environment, deliver infrastructure, or address social inequality or disadvantage.<sup>1</sup>
- 5.4. This vision of the role of planning is not incompatible with the proposed reforms, but changes are needed if this is to be met. The key issues to be addressed are around engagement, the retention of the ability of LPAs to make locally relevant policies and, through the national reforms, the embedding of the climate and bio-diversity emergencies at the centre of the planning process.
- 5.5. It is recommended that the responses attached at Appendix 1 are submitted to MHCLG as comprising the formal response of the Broads Authority, with a simple statement identifying the key concerns as outlined at 5.4 above.
- 5.6. Members should be aware that officers have liaised with colleagues in the National Park Authorities and contributed to a joint response being submitted by NPE on behalf of the authorities.

Author: Cally Smith

Date of report: 29 September 2020

Background papers: Planning for the Future, White Paper August 2020

Appendix 1 – Proposed response of Broads Authority

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<sup>1</sup> Thanks to Dan Janota, Head of Forward Planning and Economy at Dartmoor NPA for this overview of what planning is about. I could not come up with a better summary.



## Appendix 1 –Proposed response of Broads Authority

### Summary of main comments

- The commitment made by the Government to address the climate and biodiversity emergencies, which are land use led and can be challenged through land use, is side stepped.
- The key issues to be addressed as proposals are worked up are around engagement, the retention of the ability of LPAs to make locally relevant policies and, through the national reforms, the embedding of the climate and bio-diversity emergencies at the centre of the planning process.
- The White Paper lacks detail on many of the proposals, but this absence is most apparent for the areas of heritage and environment.

Proposal number	Question number and proposed response
	(Question 1 – 4 not completed)
<p><b>Proposal 1:</b> Simplifying the role of Local Plans, to focus on identifying land under three categories - Growth areas suitable for substantial development, Renewal areas suitable for development and areas that are protected. .</p>	<p>Question 5: Support proposals to speed up Local Plan production, subject to caveats around ensuring participation.</p> <p>Clarification needed around how the areas would be defined (e.g. national or local parameters) and how Protection Areas would be defined. If they are derived locally this could result in considerable inconsistency. This is important because there is no mention in the White Paper of strategic or cross-boundary planning, other than the removal of the duty to cooperate. Significant infrastructure will be required to support the Growth category due to the scale of the development, for example, whilst the identified Protected Areas of one LPA may need to be recognised by its neighbours.</p> <p>Emphasis within protected landscapes should be on protection, but with ability to meet local need.</p> <p>Actual land use is usually complex and the categories seem simplistic.</p> <p>There will need to be a mechanism to distinguish between nationally designated landscapes and those identified locally as Protection Areas.</p>

<p><b>Proposal 2:</b> Development Management policies established at national scale and an altered role for Local Plans.</p>	<p>Question 6: There are many local issues which are not covered by the NPPF (and to do so would not necessarily be appropriate) and which need, therefore, to be set out in a Local Plan. In the Broads this has included policies on residential moorings, protection of peat and the provision of public moorings within commercial development. The proposal to provide a national set of development management policies will limit the ability of an LPA to address local issues and, in addition to raising contradictions with the goal of place making, this conflicts with the objective to involve local communities in the process. It will also introduce uncertainty as there will not be a policy framework against which to judge such proposals with its local characteristics.</p> <p>At this stage, with the limited details available, we would support the alternative options in 2.16 of the document.</p> <p>There seems to be no mention of strategic policies and these are the policies with which Neighbourhood Plans need to conform. Clarity needed over whether Local Plans will still need to set out strategic policies.</p>
<p><b>Proposal 3:</b> Local Plans should be subject to a single statutory “sustainable development” test, replacing the existing tests of soundness.</p>	<p>Question 7(a): Agree that system is complex, but sufficient and good quality information is needed to make good decisions. There may be scope for consolidation and/or simplification, but detail of this will be critical.</p> <p>Plan-making and decision-taking on development is based on facts. These will include details of the site including flood risk, environmental designations and sensitivities and, potentially, matters such as highway capacity and air quality. Currently, different levels of information are required at different stages of the process. Removing the requirement for this information on the grounds of speeding up the process will often mean that it will need to be provided at another time and simply pushes it down the line. There is also a concern that if the information requirements are reduced, this will result in ad hoc impacts, particularly on the environment, which are unplanned and difficult to resolve or mitigate.</p>

	<p>There seems to be no mention of HRAs or how these issues will be addressed after Brexit.</p> <p>Question 7(b): Duty to Cooperate has been very effective in Norfolk, with useful policy documents produced and collaboration. In the absence of formal strategic or regional planning, suggest this is retained.</p>
<p><b>Proposal 4:</b> A standard methodology for establishing housing requirement figures. This would factor in land constraints and be focused on areas where affordability pressure is highest to stop land supply being a barrier to enough homes being built.</p>	<p>Question 8(a):</p> <p>It is unclear whether and how a standard methodology and the housing delivery test will apply to the National Parks and the Broads, especially as a mechanism to address affordability and/or supply.</p> <p>If the market were to absorb more housing in the National Parks and Broads, it would undermine the value of the designation. If the objective is to improve affordability and meet demand, both of which are laudable aims, there are better and more local ways of doing this. This could include identifying and prioritising demand for housing, so that development which supports and sustains local communities takes preference over that aimed primarily at well-resourced incomers, which accelerates the growth in prices. NPAs have a proven track record of using a rural exceptions site type approach to provide housing in their areas to address local need, and this would not fit well in either the Growth or Renewal model. It is also an approach which can secure local support, as the communities benefit from the development, as well as being flexible in application and potentially more attractive to SMEs.</p> <p>The White Paper is right to identify housing as one of the key challenges for a reformed planning system, but creation of sustainable places, whether new or 'densified', needs to be developed locally and a 'one size fits all' approach does not seem appropriate. There are existing models and approaches which have worked well within the National Parks and Broads and there is much merit in using these.</p>

	<p>Question 8(b): Different places have different constraints and their ability to take growth depends on many factors. It is not always the case that the bigger the settlement the more growth it can take – capacity of water recycling centres, junctions, schools are all site specific issues.</p>
<p><b>Proposal 5:</b> Areas identified for Growth Areas automatically granted outline permission, with similar for pre-established development types in other areas</p>	<p>Question 9(a): No objection in principle, subject to improved consultation and engagement arrangements to ensure local input before allocations confirmed.</p> <p>Question 9(b): As above.</p> <p>Question 9(c): Unclear of the difference between substantial new development in Growth Areas and new settlements. There is no justification made for an additional process outside of the new Local Plan arrangements, and note that the NSIP process is complex for the public to engage in.</p>
<p><b>Proposal 6:</b> Decision-making should be faster and more certain, within firm deadlines, and should make greater use of data and digital technology.</p>	<p>Question 10: There is potential for greater use of technology and shared or standard information, which will offer time and cost benefits. This relies on collaboration and at a strategic level may be compromised by the loss of the duty to cooperate. Formal mechanisms to achieve this will be required.</p> <p>The emphasis on personal technology (eg smart phones) is noted, but this will require a significant stepchange in public understanding before it can wholly replace existing methods of publicity. As noted elsewhere, reliance of technology risks excluding those without access to it.</p> <p>The proposed increased use of permission in principle and Prior Approval, automatic outline permission and wider permitted development will result in a reduced use of planning applications. These are likely to focus on the more sensitive and/or contentious schemes and/or in protected areas and may not be suitable for the digital processing.</p> <p>This has implications for community involvement, in that the only input would be at the ‘allocation’ and design</p>

	code stage (stage 1), and there would be a reduced role for Councillors and Planning Committees in determining planning applications.
<p><b>Proposal 7:</b> Local Plans should be visual and map-based, standardised, based on the latest digital technology, and supported by a new standard template.</p>	<p>Question 11: Support proposal, but note that it will require additional support to get in place. The Covid-19 pandemic has driven a change in the way in which we all communicate, and there are many benefits to the new methods, but it is very important to remember that not all groups and areas are able to access digital technology easily. There is currently a statutory requirement to set out in the Statement of Community Involvement (SCI) how an LPA has engaged with ‘hard to reach’ groups and it will be important not to create new barriers to participation.</p>
<p><b>Proposal 8:</b> Local authorities and the Planning Inspectorate will be required through legislation to meet a statutory timetable (of no more than 30 months in total) for key stages of the process, and there will be sanctions for those who fail to do so.</p>	<p>Question 12: This is a very challenging timescale and there is potential for it to be complex given the range of issues to be dealt with simultaneously.</p> <p>There is a trade-off between speed and engagement, and the proposal relies on limiting public engagement to the initial and the submission phases only. If the Government view is that more engagement results in a better plan, a further consultation stage should be introduced between stage 2 and 3.</p> <p>The work on the three areas of plan making will need to happen more or less simultaneously, and has the potential to be technical, overwhelming and confusing for stakeholders. This would limit participation.</p> <p>Further, our experience is that the general public in particular tend to respond more readily to local proposals where they can see the details, so consultation on high-level ‘allocations’ may not maximise engagement.</p> <p>If Stage 1 becomes the only stage of engagement before submission, as proposed, there is the potential for disenfranchisement and disconnect, or challenge further down the line when the details become clear.</p> <p>The importance of this is further reinforced by the fact that, under the proposals, much development would in</p>

	<p>effect be automatically consented on adoption of the plan. It is unclear therefore how the proposal would address the problem which has been identified in the White Paper that there is a lack of public trust in the process.</p> <p>Taking a third of the 30 months to examine the plan seems quite heavy at the end of the process. Better resourcing of PINS could reduce stage 3 by 3 months, which could 'pay' for new consultation stage which we introduced earlier.</p>
<b>Proposal 9:</b> Neighbourhood Plans to be retained	<p>Question 13(a): Support their retention. Clarity needed as to how they will fit with Growth etc Areas and conformity of designations.</p> <p>Question 13(b): Support will need to be made available to neighbourhood planning groups if they are to implement the digital requirements. Risk that process overtakes content, so need clear objectives and allow communities to produce their own plans</p>
<b>Proposal 10:</b> A stronger emphasis on build out through planning	<p>Question 14: Strongly support in principle. Evidence (eg Letwin) shows that slow build-out rates have significant impact on failure to meet housing target, with land banked planning permissions being a real issue. Completing permitted schemes preferable to further allocations as earlier consents likely to be sequentially preferable. This is also effective in increasing competition and improving affordability, so can be a priority.</p> <p>Sanctions are proposed for LPAs to ensure compliance with plan making or determination targets, but no intervention where build out stalls. Intervention by, eg, Homes England or equivalent might be considered.</p>
	(Question 15 & 16 not completed)
<b>Proposal 11:</b> Expect design guidance and codes to be prepared locally with community involvement and make them more binding on planning decisions.	<p>Question 17: Agree in principle with actions to improve design, but note that "beauty" is subjective and use of design codes should recognise importance of context and innovation and not result in 'identikit' schemes.</p>

	<p>A 'one size fits all' approach based on master planning for significant schemes will not transfer readily to smaller sites, particularly in rural areas, where caution needs to be exercised.</p> <p>Views on design can be very personal and vary widely, so the achievement of local consensus on such a code may necessarily result in the triumph of the lowest common denominator. This might be better approached as a 'framework for quality' which sets expectations of what will be accepted in particular areas and reflecting community preference.</p> <p>A National Model Design Code and pattern books can be appropriate for large scale development, but is of less use at the smaller scale where local context is a primary consideration. The Broads and other designated areas, particularly Conservation Areas, are identified and protected precisely because of their special character and there is potential for this to be undermined by generic development, even if it was designed for the Broads where the character of even a settlement is varied over a small area. Whilst guidance could be provided on typical form and materials, it would be difficult to produce a pattern book for the Broads which offered designs which would fit in anywhere</p> <p>Good development comprises more than just approved design and there needs to be a mechanism to cover the myriad of other factors, which might include access, flood risk and neighbour amenity. These can be identified and addressed in a masterplan for a Growth Area, or considered when making an 'allocation' of a Renewal Area, but a different process is required when dealing with small scale and windfall development, which in areas like the Broads, makes up the majority of the schemes that come forward. This consideration is not fully recognised.</p>
<p><b>Proposal 12:</b> Establish a new body to support the delivery of local design codes and each LPA</p>	<p>Question 18: Support the proposal. It will need to be properly resourced if it is to be successful.</p>

to have a chief officer for design and place-making	
<b>Proposal 13:</b> Consider how Homes England’s strategic objectives to give greater emphasis to delivering beautiful places.	Question 19: Support the proposal in principle, but subject to caveat in question 17.
<b>Proposal 14:</b> Introduce a fast-track for beauty to automatically permit proposals for high quality developments where they reflect local character and preferences.	<p>Question 20: Support the proposal in principle, but this will be more suitable for development in Growth Areas, than for Renewal where consideration needs to be given to context, amenity and other considerations. It will also be subject to caveat in question 17.</p> <p>Caution needs to be exercised in protected landscapes and Protected Areas, as character is difficult to codify.</p> <p>How something looks is one aspect, but planning has a wider remit and will consider, for example, whether there is sufficient capacity at a Water Recycling Centre and access issues. These issues also need to be addressed.</p>
<b>Proposal 15:</b> Amend the National Planning Policy Framework to focus on where planning can address climate change mitigation and adaptation and facilitate environmental improvements.	(no question)
<b>Proposal 16:</b> Introduce a quicker, simpler framework for assessing environmental impacts and enhancement opportunities to speed up the process whilst protecting and enhancing ecosystems.	(no question)
<b>Proposal 17:</b> Conserving and enhancing historic buildings and areas	(no question)
<b>Proposal 18:</b> Improvements in energy efficiency and	(no question)



commitment to net zero by 2050	
	(Question 21 not answered)
<p><b>Proposal 19:</b> The Community Infrastructure Levy to be reformed as a nationally-set fixed proportion of development value above a threshold. A single rate or varied rates could be set.</p>	<p>Question 22(a): Do not support proposal – S106 Agreements offer wider scope for contribution than simply monies, as well as having flexibility to address local issues.</p> <p>It is agreed that s106s can take time to negotiate, however if they are started early in the process and the principles agreed between the parties, they need not impact significantly on determination times.</p> <p>One of the reasons they need to be negotiated on a case by case basis (unlike CIL or the new levy) is that they relate to a particular development, however this is an advantage as it allows discretion and flexibility in response to particular circumstances, as well as allowing an LPA to include non-financial requirements.</p> <p>There may be an argument for replacing CIL with a nationally set formula, and this may be the most efficient model for volume housebuilders on standard sites with known constraints and agreed infrastructure requirements, but this does not mean that there is no place for a locally negotiated agreement in the form of a S106.</p> <p>Question 22(b): A national rate will favour more prosperous areas and reinforce existing differences and advantages, whilst a local rate may be insufficient to fund local needs in areas where development values are lower. But, there is also opportunity to incorporate a redistributive element and contribute to levelling up agenda, and this should be explored.</p> <p>Question 22(c): No comment.</p> <p>Question 22(d): No comment.</p>
<p><b>Proposal 20:</b> Extend the scope of the consolidated Infrastructure Levy to capture</p>	<p>Question 23: Support the proposal.</p> <p>This will be resource intensive to monitor and collect.</p>

changes of use through permitted development rights.	
<b>Proposal 21:</b> Ensure the new Infrastructure Levy allows local planning authorities to secure more on-site housing provision.	<p>Question 24(a): Strongly agree, but the actual method of securing affordable housing is not clear.</p> <p>Question 24(b): This will depend on local circumstances and the levy should be flexible.</p> <p>Question 24(c): As 24 (b) – the levy should be flexible to local circumstances</p> <p>Question 24(d): As 24 (b) - the levy should be flexible to local circumstances.</p>
<b>Proposal 22:</b> Give local authorities more freedom over how the Levy can be spent.	<p>Question 25: Support the principle of greater flexibility, subject to essential needs being delivered first.</p> <p>Question 25(a): Yes. The provision of more housing, and more affordable housing particularly, is the impetus for the reforms, so this should be delivered as a priority.</p>
<b>Proposal 23:</b> Development of a comprehensive resources and skills strategy for the planning sector so LPAs are equipped to create great communities through world-class civic engagement and proactive plan-making	<p>Whilst no specific question was asked on this proposal, the White Paper recognises an imbalance in resources where the level of development is likely to fall significantly short of drawing in the income necessary to resource a planning department. It is important this detail is addressed. The funding mechanism, however, will need to be fair and it must be recognised that there will be less development which generates fees in the protected landscapes, but the plan making and other requirements are the same.</p>
<b>Proposal 24:</b> We will seek to strengthen enforcement powers and sanctions so that as we move towards a rules-based system, communities can have confidence those rules will be upheld.	<p>Whilst no question was asked specifically on this proposal, this will become much more important if development is consented automatically through, for example, Growth Area status or design codes, subject to its being in accordance with the ‘rules’ as compliance will need to be checked. This will require resourcing.</p>
	(Question 26 not answered)