



# Walsall Council

## **PLANNING COMMITTEE: 15<sup>th</sup> October 2020**

### **REPORT OF HEAD OF PLANNING & BUILDING CONTROL**

#### **Walsall response to Planning White Paper: Planning for the Future**

##### **1. PURPOSE OF REPORT**

To advise Committee of the proposals included in the Planning White Paper: Planning for the Future consultation from Government and seek delegation to prepare a Walsall Council response to the consultation exercise which expires on 29<sup>th</sup> October 2020. This will be in addition to a response being made on behalf of the Black Country Authorities who work jointly in the preparation of the Local Plan. .

##### **2. RECOMMENDATIONS**

That Committee delegates authority to the Head of Planning & Building Control and the Head of Regeneration, Housing and Economy to submit a Walsall response to the consultation on the White Paper.

##### **3. FINANCIAL IMPLICATIONS**

None arising directly from this report however the consultation proposals will potentially have implications on Local Planning Authorities financial resources and these are considered as part of the consultation response.

##### **4. POLICY IMPLICATIONS**

The Planning White Paper will form the basis for the future direction of national and local planning policy and procedures.

##### **5. LEGAL IMPLICATIONS**

The Council response to the Planning White Paper will be considered by Government in the formation of future legislative changes in planning.

##### **6. EQUAL OPPORTUNITY IMPLICATIONS**

None arising from the report.

##### **7. ENVIRONMENTAL IMPACT**

None arising from the report.

8. **WARD(S) AFFECTED**

All.

9. **CONSULTEES**

Planning Policy  
Development Management

10. **CONTACT OFFICERS**

Alison Ives: Head of Planning & Building Control  
Simon Tranter: Head of Regeneration, Housing and Economy

11. **BACKGROUND PAPERS**

All published.

**Alison Ives**  
**Head of Planning and Building Control**

## **PLANNING COMMITTEE: 15<sup>th</sup> October 2020**

### **Consultation on Planning White Paper: Planning for the Future**

- 12.0** The consultation sets out proposals to reform the English planning system in order to speed up and simplify the system, build 300,000 homes a year and improve the quality of design and place making. The proposals are at an early stage of development and may well change following the consultation. The reforms would involve replacement of existing planning legislation and guidance and would take a number of years to implement if taken forward in their current form, including further opportunities for consultation.
- 12.1** A joint Black Country response is being prepared for submission. This joint response on behalf for the four Planning Policy teams and endorsed by the Association of Black Country Authorities (the political Leaders and Chief Officers of the four authorities) makes it clear to the government that supplemental comments may also be made by an individual authority.
- 12.2** The joint Black Country response is considered to helpfully set out some of the key areas of concern regarding the likely adverse implications on the resourcing of local authorities, local decision making and local democracy and over-simplification of the planning system which has the potential to result in long-term negative impacts on the natural and built environment.
- 12.3** In addition, Walsall's Development Management team has been collaborating with key internal consultees to produce a further response to this consultation to expand on the Black Country response to specific areas of the proposals which would directly affect the day-to-day operation of Walsall's Planning Service, and which would ultimately affect the way in which members of the public, landowners, developers and investors interact with Walsall's Planning Service.
- 12.4** The White Paper highlights several areas where the current planning system is identified as requiring change including the following statements/ proposals:
- It is too complex
  - Planning decisions are discretionary rather than rules based
  - It takes too long to adopt a local plan
  - assessments of housing need, viability and environmental impacts are too complex and opaque
  - It has lost public trust
  - It is based on 20<sup>th</sup> century technology
  - The process for negotiating developer contributions to affordable housing and infrastructure is complex, protracted and unclear
  - There is not enough focus on design, and little incentive for high quality new homes and places
  - It does not lead to enough homes being built
- 12.5** The White Paper aims to:
- Be more ambitious for the places we create
  - Move the democracy forward
  - Improve the user experience of the planning system
  - Support home ownership

- Increase the supply of land available for new homes where it is needed
- Help businesses to expand
- Support innovative developers and housebuilders
- Create a virtuous circle of prosperity in our villages, towns and cities

**12.6** The proposals affect five areas of planning including:

- Streamlining the planning process with more democracy taking place more effectively at the plan making stage;
- Digital-first approach to modernise the planning process. This means moving from a process based on documents to a process driven by data;
- Bring a new focus on design and sustainability;
- Improve infrastructure delivery in all parts of the country and ensure developers play their part;
- Ensure more land is available for the homes and development people and communities need, and to support renewal of our town and city centres;

**12.7** To achieve this three pillars of change are proposed, Pillar One: Planning for Development, Pillar Two: Planning for Beautiful and Sustainable Places and Pillar Three: Planning for Infrastructure and Connected Places. Within the three pillars various proposals are put forward to deliver change each including a series of questions for respondents (26 questions in total). The pillars propose the following:

**Pillar One:**

- The role of land use plans should be simplified by identifying identify three types of land – Growth areas suitable for substantial development, Renewal areas suitable for development, and areas that are Protected.
- Development management policies established at national scale and an altered role for Local Plans.
- Local Plans should be subject to a single statutory “sustainable development” test, replacing the existing tests of soundness.
- A standard method for establishing housing requirement figures which ensures enough land is released in the areas where affordability is worst, to stop land supply being a barrier to enough homes being built. The housing requirement would factor in land constraints and opportunities to more effectively use land, including through densification where appropriate, to ensure that the land is identified in the most appropriate areas and housing targets are met.
- Areas identified as Growth areas (suitable for substantial development) would automatically be granted outline planning permission for the principle of development, while automatic approvals would also be available for pre-established development types in other areas suitable for building.
- Decision-making should be faster and more certain, with firm deadlines, and make greater use of digital technology
- Local Plans should be visual and map-based, standardised, based on the latest digital technology, and supported by a new template.
- Local authorities and the Planning Inspectorate will be required through legislation to meet a statutory timetable for key stages of the process, and we will consider what sanctions there would be for those who fail to do so.
- Neighbourhood Plans should be retained as an important means of community input, and we will support communities to make better use of digital tools

- A stronger emphasis on build out through planning

#### Pillar Two:

- To make design expectations more visual and predictable, we will expect design guidance and codes to be prepared locally with community involvement, and ensure that codes are more binding on decisions about development.
- To support the transition to a planning system which is more visual and rooted in local preferences and character, we will set up a body to support the delivery of provably locally-popular design codes, and propose that each authority should have a chief officer for design and place-making.
- To further embed national leadership on delivering better places, we will consider how Homes England's strategic objectives can give greater emphasis to delivering beautiful places.
- We intend to introduce a fast-track for beauty through changes to national policy and legislation, to incentivise and accelerate high quality development which reflects local character and preferences.
- We intend to amend the National Planning Policy Framework to ensure that it targets those areas where a reformed planning system can most effectively play a role in mitigating and adapting to climate change and maximising environmental benefits.
- We intend to design 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.
- Conserving and enhancing our historic buildings and areas in the 21st century
- To complement our planning reforms, we will facilitate ambitious improvements in the energy efficiency standards for buildings to help deliver our world-leading commitment to net-zero by 2050.

#### Pillar Three

- The Community Infrastructure Levy should be reformed to be charged as a fixed proportion of the development value above a threshold, with a mandatory nationally-set rate or rates and the current system of planning obligations abolished.
- The scope of the Infrastructure Levy could be extended to capture changes of use through permitted development rights.
- The reformed Infrastructure Levy should deliver affordable housing provision.
- More freedom could be given to local authorities over how they spend the Infrastructure Levy

#### **12.8** There is also a proposal for delivering change as follows:

- Develop a comprehensive resources and skills strategy for the planning sector to support the implementation of our reforms.
- Seek to strengthen enforcement powers and sanctions

#### **12.9** The White Paper proposes the following changes to the Local Plan and Development Management process:

- i. Local Plans to identify three types of area: *Growth areas* suitable for

- substantial development (to be defined): *Renewal areas* suitable for development subject to certain conditions: and *Protected areas*. Sites in Growth areas would have automatic outline planning permission; this would remove the opportunity for planning committee to determine such proposals.
- ii. Local Plans to focus on identifying sites / areas for development and specific standards and requirements for these, including design codes for Growth areas;
  - iii. General presumption in favour of development in *Renewal* areas, with consent granted through prior approval type processes (for pre-specified forms of development), a “faster” planning application process or local / neighbourhood development orders.
  - iv. Development management policies to be set nationally and Local Plans to be short and set out clear rules rather than detailed policies;
  - v. Local Plan evidence requirements to be reduced, the sustainability appraisal process slimmed down and the “soundness” test replaced by a simpler “sustainable development” test;
  - vi. Local Plans to cover a 10 year period and to be produced to a statutory timetable of 30 months maximum (with sanctions for failure to comply) covering the following stages:
    - a. Issue “call for sites”
    - b. Publish draft plan for consultation
    - c. Consultation responses considered by Inspector as part of public inquiry
    - d. Planning Inspector makes changes to Plan
    - e. Adoption
  - vii. “Duty to Cooperate” requirement to be removed, subject to suggestions on what could replace it.

**12.10** The Black Country response highlights the following:

- The simplified three zones for Growth, Renewal and Protection does not account for overlapping areas and should not replace the existing Local Plan designations but could be applied to existing designations and more details provided including Design Codes for Growth areas for example much like masterplans have been prepared for larger development allocations. However, this is likely to increase time and resources necessary to produce Local Plans. Introduction of wider Prior Approval application processes reduces the discretion of the local authority to control development.
- Introduction of national standard policies would not account for local variations as necessary in terms of viability and delivery evidence which are key to delivery of housing and infrastructure. Evidence would still be required to determine if outline approval could be granted for Growth areas.
- The proposed Local Plan preparation timetable would remove key stages from the process allowing less opportunity for a local planning authority to respond to public consultation relying instead on the Planning Inspectorate to take into account consultation responses. This would increase resource implications for the Planning Inspectorate and does not recognise the need for public consultation stages to provide transparency. The shorter 10 year Plan period does not provide continuity of housing supply taking into account the length of time taken to bring forward constrained sites in the Black Country.

- Removal of the Duty to Cooperate does not achieve strategic planning across the country which currently compels local authorities to work together to address cross boundary issues, particularly housing delivery. There would be no mechanism for housing and employment land in constrained urban areas to be met elsewhere if needed and places pressure to release locally important land in potentially unsuitable locations (e.g. Green Belt) for development.

**12.11** In summary the Black Country supported the retention of existing Local Plan designations categorised into Growth, Renewal and Protected areas; identified that streamlined planning approval processes were inappropriate for major proposals where LPA's need to retain the ability to control poorly designed development and ability for the public to comment or planning committee to consider proposals but supported enhanced resources including staffing and IT investment; considered design codes and masterplan details should continue to be provided through Supplementary Planning Documents as to process evidence at the Local Plan stage would slow down the process; support shortening of Local Plans but consider national policies would not allow local authorities to adopt variants; oppose the removal of key viability, delivery and sustainability appraisal requirements for Local Plans; oppose removal of key stages in the Local Plan process that provide opportunities for local authorities to respond to public consultation; opposed the Duty to Cooperate unless replaced by another mechanism that allows local authorities to work together to deliver strategic planning of growth and infrastructure.

**12.12** The Black Country response also raised matters in relation to how housing targets are calculated and delivered highlighting that these should reflect environmental and delivery constraints to be delivered through the Local Plan process. It also welcomed greater resources in planning to help secure high quality design and strengthening of enforcement powers, supported retention of "extensions of time" to determine planning applications to provide flexibility for customers and focussing resources on unlocking constrained brownfield sites,

**12.13** The Walsall response should reiterate these concerns in responding to the questions on the consultation. In addition, some specific points ought to be considered to include the following:

- i. Simplified zoning of areas in the Local Plan does not give any greater certainty than allocation of land in the current Local Plan framework and does not consider the complex nature of areas like Walsall where there are overlapping heritage/renewal aspects to consider for example.
- ii. Incorporation of national development management policies and localised Design Codes could result in homogenous design losing a sense of place and the identity of specific communities in places like Walsall and may also stifle innovation in design. It should also recognise that in areas with lower land values and issues of development viability this may affect the ability to bring forward appropriate development to assist regeneration of the Borough.
- iii. Wider use of Prior Approval applications will reduce planning application fee income yet is likely to result in increased numbers of applications thus placing additional pressures on local authorities resources that could delay processing.
- iv. Whilst standardisation of technical supporting information may be suitable for smaller sites this may not take account of highly constrained contaminated sites such as those in Walsall where this information is crucial and can vary

significantly.

- v. The proposals aim to give more certainty as to the acceptability of the principle of development at the outset, therefore a shorter standard timeframe for commencement could be considered to help to focus the submission of applications at a stage when land assembly/purchase, funding, and other matters have been resolved. This can otherwise cause a delay in the build-out following the issuing of permission. Possibly removing the free go within 12 months to encourage developers to bring forward development sooner.
- vi. Whilst use of technology and digital innovation is welcomed the use of social media and other digital platforms by communities to comment on proposals can be very difficult for the local authority to monitor and manage. It also has the potential to exclude certain demographics of society. Potential funding for investment in necessary technology should be considered.
- vii. Use of technology to automate some processes is welcomed. Walsall Council has made significant investment in planning software and any changes should therefore be made possible through additional government funding to retain and enhance existing systems as replacement of planning software and historic data migration brings with it risks of data corruption, staff re-training, re-mapping of internal processes and links with other systems and services across a Local Authority. This all has the potential to result in delays to service delivery.
- viii. Fundamental change is needed in the way we design, fabricate and build homes to mitigate and future-proof against climate change. The reforms should seek to enhance the modular/alternative sustainable house building sector in tandem and place clear and realistic targets for developers to achieve within any national DM Policies taking account of localised viability factors. A good example of this is the timber frame manufacturing facility in Walsall which produces over 1,000 closed panel timber homes per year which are more energy efficient and quicker to build than traditional houses.
- ix. Increased use of simplified Prior Approval processes would limit the local authority ability to influence the design of development to ensure a high quality environment. It would also significantly reduce the planning application fee income placing further pressure on resources.
- x. An aspiration for tree lined streets may not be practical in dense urban areas where space is constrained and could have implications on viability of developments as well as future maintenance liabilities for local highway authorities for example.
- xi. Sufficient flexibility should be possible within any Design Code to ensure each new development has the opportunity to reflect the local vernacular (which vary significantly within our existing communities) rather than the potential homogeneous appearance that may otherwise arise.
- xii. The requirement for each authority to have a Chief Design Officer places further resource and budget implications on Local Authorities. Design and place-making are key components of modern planning and existing development management officers would benefit from further training in this area so that there is a wider appreciation of design.
- xiii. Increased use of Prior Approval applications where popular and replicable designs are permitted development fails to consider the different character of areas of places such as Walsall. In the absence of an appropriate assessment by the local authority this could harm the character of an area or



- result in low quality design.
- xiv. Consider the possibility of a 'fast track process' applying to 'green and sustainable designs'.
  - xv. A review of developer contributions is welcomed as the current dual process of Section 106 and Community Infrastructure Levy is considered to be overly complex, inflexible, causes delays and uncertainty and fails to best deliver the supporting infrastructure required. The proposed capture of land value uplift is considered might provide a fairer basis in sharing the benefits of securing planning permission. However, such an approach would need to take account of lower land values, higher remediation costs and overall lower viability in areas like Walsall and the Black Country to ensure that any contributions would effectively deliver the necessary supporting infrastructure whilst not hindering the delivery of development. Rates should be set locally to reflect local viability and circumstances.
  - xvi. It is considered appropriate that development carried out under permitted development rights should contribute equally towards any necessary supporting infrastructure to mitigate impacts arising over and above the previous use of the land or buildings.
  - xvii. Sufficient resources should be provided for Planning Enforcement teams;

**12.14** The government deadline for submitting comments is 29<sup>th</sup> October 2020, and this report seeks the resolution of Planning Committee to delegate to the Head of Planning & Building Control and the Head of Regeneration, Housing and Economy to finalise and issue a Walsall Council response to this consultation. A copy of the Council's submitted response would be provided as an update item to a future Planning Committee.