

EAST CAMBRIDGESHIRE LOCAL PLAN AND THE 'PLANNING FOR THE FUTURE' WHITE PAPER

Committee: Full Council

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[V91]

1.0 ISSUE

- 1.1 To update Members on a wide range of planning policy matters, and seek an agreed way forward on such matters.

2.0 RECOMMENDATION(S)

2.1 That Council:

- I. Notes the publication of the Planning White Paper, and delegates to Director, Commercial, in consultation with the Leader, to respond to the White Paper in line with the principles set out in the agenda report;
- II. Agrees to commence preparation of a partial update to the 2015 Local Plan (a 'Single Issue Review'), in accordance with the principles set out in the agenda report and to a timetable (the 'Local Development Scheme') as set out at Appendix 1; and
- III. Endorses the updated work programme for the preparation of Supplementary Planning Documents over the coming 12 months.
- IV. Continues to support Parish Councils on planning matters, including those that have identified an interest in progressing Neighbourhood Plans in their area, and further resolves that Officers should write to each Parish Council with a thorough update on planning policy matters, in line with the content of this agenda report, and explain what it means for them at a local parish level.

3.0 BACKGROUND/OPTIONS

Introduction

- 3.1 Previous reports to Full Council (such as in February and October 2019) provided detailed background as to Council's position in respect of planning policy, but in short, the current main 'framework' of planning policy in the district is as follows:
- East Cambridgeshire Local Plan – April 2015
 - Adopted Neighbourhood Plans for Fordham, Sutton and Witchford
 - A collection of Supplementary Planning Documents (SPDs) covering a variety of thematic areas

- 3.2 In addition to above, there are several Neighbourhood Plans, and also an SPD, at what are known as an 'emerging' stage, and could progress to adoption over the next 1-3 years. Also, as a reminder, the Council operates a 'Community Infrastructure Levy' (CIL) system, whereby all applicable development must pay a levy, based on floorspace created, with such funds pooled by the Council and ringfenced for spend on infrastructure (with a minority element of the pool also passed to Parish Councils for the Parish Council to spend on infrastructure).
- 3.3 The purpose of this agenda item is to establish a programme for progressing updates to the current framework described above.
- 3.4 In considering that question, Council also needs to consider the recent Government proposals to fundamentally amend the planning system, both planning policy and development management.
- 3.5 This agenda item therefore covers a number of strands, but it is considered important to consider them all, in the round, in order to establish the most appropriate way forward for each aspect. This report therefore provides commentary, in turn, on the following areas, before drawing together conclusions and recommendations on each:
- Planning White Paper
 - Progressing any review of the East Cambridgeshire Local Plan
 - Issues in relation to Neighbourhood Planning
 - An update on progressing Supplementary Planning Documents

Planning White Paper

- 3.6 In introducing the White Paper, the Prime Minister describes the current "*outdated and ineffective planning system*" as "*a relic from the middle of the 20th Century*". He says that he wants to "*tear it down and start again*", and create a new system which "*is simpler, clearer and quicker to navigate, delivering results in weeks and months rather than years and decades*".
- 3.7 To achieve that new system, he wants:
- "Not more fiddling around the edges, not simply painting over the damp patches, but levelling the foundations and building, from the ground up, a whole new planning system for England."*
- 3.8 It is a reasonable position to take that the White Paper proposes what the Prime Minister seeks – it is proposing the most radical shake-up of the planning system since its modern day inception in 1947.
- 3.9 Such is the scale of change proposed in the 84-page document (available here: <https://www.gov.uk/government/news/launch-of-planning-for-the-future-consultation-to-reform-the-planning-system>), that it is hard to summarise in an agenda report such as this the true extent of it, but as a flavour the following bullet points attempt to capture some of the headlines:

- Local Plans would be slimmed down to (more or less) just map-based plans, allocating 'zones' for development or protection.
- The National Planning Policy Framework (NPPF), not Local Plans, would be the place for setting development management policies.
- Housing requirements to be set by Government for each district which are "binding requirements" that each Council "would have to deliver through their Local Plans". They will be fixed numbers based on a fixed national formula.

(separately, Government has consulted on this formula, and for East Cambs it would result in a slightly lower housing requirement than the present method, reducing from around 600 dwellings per annum (dpa), to around 550 dpa. Most other places have gone up (Fenland by 50%, to 850 dpa, for example), though others have gone down, including some surprising ones such as S Cambs (down 30% to 773 dpa which, on a pro-rata basis means Fenland will have to deliver approaching twice as many homes compared with the much larger, less affordable, more buoyant S Cambs, which appears on the face of it a flaw in the method).

- Whilst planning policies will predominantly no longer be set locally, Government wants a much greater emphasis on a district council (and a parish council) setting 'design codes' for its area, especially for specific 'growth zones'; and for planning departments to have far greater skills available on testing design quality (including a new statutory "Chief Officer for Design and Place Making").
- Local Plans must be produced in a maximum 30 months, with "*sanctions for those who fail to do so*", and with an expectation that all districts will have a new style adopted Local Plan "*in place by the end of the Parliament*" (i.e. December 2024).
- Despite this fixed maximum preparation time, community involvement in planning will, it appears, shift away from the planning application stage to the Local Plan/Design Code preparation stage.
- That community consultation shift forms part of a wider set of proposals to speed up decision making on planning applications. In zones identified for 'growth' in the Local Plan, 'permission in principle' (similar to outline permission) will be granted automatically without any need for an application or community consultation. Thereafter, if the proposals for that site fit the design code and national policies, the presumption is that proposals will be approved.
- Underpinning all this 'speed' (policy preparation and planning applications) is a desire to massively improve the 'digitisation' of planning, with far improved, and standardised, use of data and digital tools to make decisions and inform people. To a degree, it could be argued that the White Paper is attempting to automate the planning system as much as possible, in order to speed it up.

- Part of that ‘speeding up’ is the determining of applications within set timeframes and if this is not met then the fee will be refunded. ECDC Members are very keen for officers to work with applicants to try and get an appropriate scheme, but this will, it appears, be reduced to the extent which we do at present because we will not be able to extend the time period and must determine within those set time frames. This could fundamentally alter how we work, with much greater emphasis on pre-application advice, and potentially implications for committee due to timing.
- Where councils refuse an application, but go on to lose at appeal, all fees paid by the applicant will, it is proposed, be returned by the council to the applicant, likely meaning many councils could not afford to take the risk of refusing many, if any, applications, unless it was certain of winning the appeal – the financial implications of losing an appeal could be considerable.
- Turning to the environment, the White Paper comments that “*we want the reformed system to play a proactive role in promoting environmental recovery and long-term sustainability. In doing so, it needs to play a strong part in our efforts to mitigate and adapt to climate change and reduce pollution as well as making our towns and cities more liveable through enabling more and better green spaces and tree cover.*” But, as with much else, there is little detail on what is proposed, and the merits of the proposal “*to design a quicker, simpler framework for assessing environmental impacts*” depends on what that new framework is: the risk, of course, is that a ‘quicker, simpler’ approach fails to properly consider environmental impacts.
- Another major announcement, again primarily focussed at speeding the system up by eliminating areas of debate and negotiation, is the abolition of developer contributions via S106 and CIL. Instead, it is proposed that there will be a centralised, nationally fixed ‘tariff’, based on development value.

3.10 Overall, a fundamental element of the proposed reforms is one of centralising elements of the planning system nationally (for example generic national policies, nationally set housing requirements for local areas, and a national formula for developer contribution tariffs).

3.11 Also, as part of centralising the system, it does not appear that community involvement in the planning process will, overall, be enhanced by the reforms, and indeed could be significantly reduced. Much of the decision making is proposed to be taken away from local authorities (or, at the very least, the time for decision making) and, consequently, local communities will have less say (or, at the very least, less time to say). That said, the White Paper claims the opposite, and believes the new approach will ‘enhance’ community engagement (such as through the use of data and design codes). Of course, until we see the detailed proposals, it is not certain what will be the case.

- 3.12 Turning specifically to an issue of importance to East Cambridgeshire, there is considerable uncertainty as to the impact of the proposals on the ability to further our ambitions to deliver community-led development, such as Community Land Trust (or similar) development schemes. As it stands, it appears a local authority could no longer set planning policies which support, in principle, CLT schemes. However, the White Paper (at page 29) does say that in ‘growth zones’:

“we would also want to allow sub-areas to be created specifically for self and custom-build homes, and community-led housing developments, to allow a range of housing aspirations to be met and help create diverse and flourishing communities.”

That stated ambition may well be useful, and could be supported, but CLT schemes traditionally come forward on exception sites, rather than sites allocated (or ‘zoned’) for development. They do this on the simple basis that land values on allocated sites more often than not prevent the full ambitions of a CLT scheme to be realised. Put another way, CLT schemes on exception sites typically extract greater community benefit, including financial benefit, than ‘normal’ development sites.

- 3.13 More widely, there appears a lack of any real underlying thought in the White Paper in relation to the planning system in more rural areas such as East Cambridgeshire. To illustrate the point, the word ‘rural’ features only once in 84 pages, and ‘countryside’ is only used three times. Neighbourhood Planning, which traditionally, national and locally, tends to come forward in smaller rural settlements, similarly appears to be ‘watered down’ under the proposed system (a view shared by Locality, perhaps the leading organisation nationally on community participation, including on neighbourhood planning. Locality’s published view is that the White Paper “*may mean that neighbourhood plans will have a much more slimmed down scope*”)
- 3.14 But, undoubtedly, the reforms will likely achieve one of its stated primary aims: speed.
- 3.15 The big question, of course, is whether, in the round, achieving such speed is not outweighed by the potential negative effects of the proposals. Government, of course, will argue that the package as a whole is not only better because of its speed, but will deliver on its other stated objectives, as summarised by the Prime Minister in its introduction. He states that the new system will be one:

“That actively encourages sustainable, beautiful, safe and useful development rather than obstructing it.

That makes it harder for developers to dodge their obligations to improve infrastructure and opens up housebuilding to more than just the current handful of massive corporations.

That gives you a greater say over what gets built in your community.

That makes sure start-ups have a place to put down roots and that businesses great and small have the space they need to grow and create jobs.

And, above all, that gives the people of this country the homes we need in the places we want to live at prices we can afford, so that all of us are free to live where we can connect our talents with opportunity.”

3.16 Overall, it is recommended that the Council responds to the White Paper, with such a response capturing these broad themes:

- The greater emphasis on design quality is supported (albeit the resources to achieve that could be considerable).
- The greater use of digital and interactive material in the planning system is welcome (albeit, again, the resources to achieve that could be considerable).
- The principle of speeding up the system is also welcomed, but we are nervous about some aspects of achieving that speed, including proposals relating to community consultation and the proposal to reduce site-specific investigations.
- Some of the centralisation of the planning system is, in principle, supported, including the setting of housing targets, infrastructure tariff and some development management policies. But, the detailed method and outcome of such centralisation of targets/levies/policies needs to work and be effective for all places, including East Cambs, and we will need to see the details before endorsing this principle further.
- In principle support for the commitment that the reformed system will play a proactive role in promoting environmental recovery and long-term sustainability, but, again, the detail is lacking on this point, and any revised ‘quicker, simpler’ system of environmental assessment must continue to address environmental issues robustly.
- Concern that the White Paper is considerably lacking on content in terms of approach and implications for rural areas and the countryside.
- Linked to the above, concern in relation to the implications for community-led / CLT development schemes, which risk being marginalised by the ‘zoning’ approach proposed (albeit this is not certain; the White Paper is simply not clear on this point).
- Concern in respect of fixed time decision making for planning applications. The risk with such a blunt instrument is that local authorities will have no ability (time) to work with developers to resolve problems, meaning it could lead to more refusals simply because fixed deadlines have to be met.
- Financially penalising planning authorities when they lose appeals appears counter-productive and this is not supported; poor proposals will not be refused, and/or, where appeals are lost, money will be lost from already strained council budgets, meaning even less resource spent on scrutinising proposals or drawing up Local Plans in the first place.
- There is a lack of clarity on what is happening to Neighbourhood Plans. Whilst in passing it refers to such Plans being retained, there seems little fit with them and the new system proposed, and the general consensus in the

planning press is that the scope and power of Neighbourhood Plans will be much reduced.

- Once again, the 'blame' for past perceived failures in the system is largely placed, unfairly, on local planning authorities; and the 'sticks' proposed are again one-sided against local planning authorities ('sanctions' and 'fees' are all aimed at local planning authorities if they do not meet the requirements of the proposed new system, with very little emphasis placed on penalising poor performing or non-delivering developers and no provision of levers to councils to secure implementation of development schemes by developers).

3.17 With Full Council approval, it is proposed that the above set of bullet points will form the basis for the Council's response to the White Paper, which closes for consultation on 29 October 2020.

3.18 Before moving on to other matters, it is worth noting that this is a White Paper. Much could change, and it will require substantial primary and secondary legislation. It could take year(s) for the new system to be enacted, and there is much uncertainty as to precisely what that 'new system' will be. But, the tone of the document is very much along the lines of 'this will happen' and 'will happen quickly' with an ambition for every district to have a 'new style' Local Plan by the end of this Parliament (i.e. Dec 2024).

3.19 In the short term, therefore, the direct implications for the Council are zero. It is merely a White Paper with no 'weight' in the planning system. However, the Council will need to assess the direction of travel indicated in the White Paper, and determine to what degree the Council seeks to move with that direction now (especially in terms of plan making), rather than waiting for the legislation to emerge, and this is relevant to the section below on the East Cambs Local Plan.

East Cambridgeshire Local Plan

3.20 The Council's Local Plan remains its 2015 version, having reluctantly withdrawn its emerging replacement one in 2019.

3.21 Being greater than five years old, it is necessary (by law) to regularly review its content to determine how 'up to date' it is, and the Council undertook, and published, its last formal Review in April 2020. That Review, in summary, concluded that the:

"...Local Plan 2015 does require to be revised, but only partially and only in respect of its strategic housing policies. Of those policies, Policy GROWTH1 needs to be revised, because it has an out of date housing requirement. Other strategic housing policies may also be updated during the course of updating GROWTH1, should that be necessary.

The rest of the Local Plan is considered to not, at the present time, be in need of updating, therefore a full update of the Local Plan is not considered necessary.

However, whilst only one policy has been identified in need of updating, this does not prevent the council from commencing preparation of a new Local Plan, in whole or part, on matters as it sees fit."

- 3.22 Having reached the above conclusion, Full Council now needs to formally decide how to proceed with any such update to the Local Plan. The options are as follows:

Option 1: Do as the Review in April concluded, and limit any update of the Local Plan to the matters identified in the Review, namely GROWTH1 and its housing requirement, and possibly, consequentially, other policies if strictly necessary. To use planning terminology, this type of plan update is often referred to as a 'Single Issue Review'; or

Option 2: Go beyond what the Review in April concluded, and do a more comprehensive or full new Local Plan; or

Option 3: Do nothing at present, and await further progression of the White Paper to see whether to progress Option 1, Option 2 or, instead, simply wait for the new system to commence and start a new Local Plan on that basis.

- 3.23 For Options 1 and 2, such work would be undertaken under the current system, not what the White Paper proposes.

- 3.24 On that basis, there appears no strong case to proceed with Option 2. There is no identified need for it, it would take longer than Option 1, and cost far more. It may well never reach the finishing line before the new system kicks in, even if the legislation allows for a transitional arrangement between systems.

- 3.25 Option 3 has merits, and might be the cheapest in the short term. But it is with considerable risk. There is no certainty as to the outcome of the White Paper, either in terms of content or timing. In time, Option 3 will cast doubt on the legitimacy of the Council's April 2020 Review, where it said a partial update of the Local Plan was needed. If that April 2020 Review was deemed itself to be 'out of date' because it was not being acted upon, then consequentially the Council's published Five Year Land Supply Report would be questioned, because it relies on the conclusion of the Review that an update was necessary. If a Local Plan update was not necessary, or not commenced, then there is considerable risk (to the point of almost certainty) that the Council would lose its Five Year Land Supply position, for technical methodological reasons of how a Five Year Land Supply is calculated. Option 3 is not, therefore, recommended.

- 3.26 Option 1 is recommended. This is because it will achieve what is necessary, at a limited cost (probably within existing budgets, or perhaps only slightly over). It will progress on the basis of the new housing requirement figures, which is likely to result in no new allocations being required. By using the new figures, it also sets the basis for the new 'White Paper' system. In effect, a partial update of the 2015 Local Plan under the present system, would be very similar to what is required under the new proposed system, which means the Council should be able to quickly jump from one system to the other, without any loss of work or resource. If the White Paper does not proceed, nothing would be lost. If the White Paper

proceeds very quickly, then work on a partial review under the present system would end but all such work would simply transfer to the new system. Option 1, therefore, has the least risk, a low (but possibly not quite lowest) cost, and is the most advantageous in terms of getting a good start on a possible new system.

- 3.27 If Members agree to proceed with Option 1, then attached at appendix 1 is a Local Development Scheme (LDS) recommended for approval, which sets the formal (and legally required) timetable for such a Local Plan 'Single Issue Review' update.

Neighbourhood Planning

- 3.28 There continues to be a high degree of interest in Neighbourhood Planning in the district, with 10 parish councils at least taking the first step (becoming a designated neighbourhood area) and three of which have already reached the final adoption stage.

- 3.29 The White Paper certainly adds some uncertainty to the future of Neighbourhood Planning, despite its commitment for them to be retained. It states:

“we think Neighbourhood Plans should be retained in the reformed planning system, but we will want to consider whether their content should become more focused to reflect our proposals for Local Plans, as well as the opportunities which digital tools and data offer to support their development and improve accessibility for users. By making it easier to develop Neighbourhood Plans we wish to encourage their continued use and indeed to help spread their use further, particularly in towns and cities. We are also interested in whether there is scope to extend and adapt the concept so that very small areas – such as individual streets – can set their own rules for the form of development which they are happy to see.”

- 3.30 Officers' interpretation of the above is that Neighbourhood Plans will be stripped of their ability to allocate most, if not all, things, and be stripped of their ability to set development management policies. Instead, they will be asked to focus on design quality.

- 3.31 Nevertheless, in the meantime, Neighbourhood Plans continue to progress under the present system, and we are constantly learning about, and subsequently advising parish councils, of best practice. This includes providing advice in relation to housing need and how to allocate sites, learning in particular from the examination of the Witchford Neighbourhood Plan (which itself, at the time of writing, is still subject to one legal challenge which we anticipate concluding this month or in early November, though a second legal challenge has been rejected by the Courts).

- 3.32 Overall, and in line with Council policy, Officers continue to support Parish Councils in whatever way we can, and have established strong relationships with a large number of parish councils in that respect. In that regard, Officers believe it would be helpful to Parish Councils if we write to each of them, to update them on the

contents of this agenda item (as agreed), with a specific emphasis on what it may mean for them, as Parish Councils.

Supplementary Planning Documents

3.33 This part of the report updates on Supplementary Planning Documents (SPDs) prepared / being prepared recently, and seeks agreement as to how these should continue to be progressed.

3.34 As a reminder, the NPPF defines an SPD as follows:

***“Supplementary planning documents:** Documents which add further detail to the policies in the development plan. They can be used to provide further guidance for development on specific sites, or on particular issues, such as design. Supplementary planning documents are capable of being a material consideration in planning decisions but are not part of the development plan.”*

3.35 The Council currently has a number of adopted SPDs. Some of these are policy thematic based (e.g. Community-led Development SPD), some are site specific (e.g. Bell Road, Bottisham Masterplan) and one is about how we will seek Developer Contributions. Full details are available here:

<https://www.eastcambs.gov.uk/local-development-framework/supplementary-planning-documents>

3.36 Over the past year, Council has drafted, consulted and adopted (24 September 2020) two new SPDs:

- **Self and Custom Build SPD:** this short SPD sets out greater detail on what the Council expects from development proposals which fall under this type of development, and the relationship to CIL liabilities (Self and Custom Build homes being exempt from CIL, under national legislation).
- **Natural Environment SPD:** this SPD, amongst other matters, sets out advice and detailed policy requirements relating to the natural environment, tackling issues such as: ‘net gain’ in biodiversity via development proposals; technical advice in terms of discharging Habitat Regulation Assessments (HRA) obligations, especially in relation to swan and goose foraging in designated protection zones around the Ouse Washes; and setting out the Council’s position in relation to the recently adopted Local Nature Partnership vision to ‘double land for nature’ by 2050 across Cambridgeshire (a vision also endorsed by the Combined Authority in July 2019).

3.37 On 24 September 2020, a draft SPD was also approved, for the purpose of consultation, on **Climate Change**, providing updated guidance on what the Council expects developers to do to contribute to mitigating climate change.

3.38 Two further SPDs were also originally proposed to be commenced in the second half of 2020. However, there is now considerable doubt in the value of

progressing these two matters further, as a consequence of the White Paper and other recent Government announcements.

- 3.39 The first was to update our existing **Developer Contributions SPD**. The aim was to bring it up to date on matters such as affordable housing, education and open space contributions. However, several matters are indicating that such an update would no longer be a sensible measure to expend resources on. First, because we must remember that an SPD cannot amend or contradict policy as set out in the adopted Local Plan: it can only provide additional guidance or detailed complementary policy. Second, Government issued advice in late 2019 stating such SPDs must no longer set out 'formulaic' contribution asks, which considerably limits what such a Developer Contributions SPD can do. More fundamental than that, of course, is the White Paper proposal to completely scrap developer contributions. There is a real risk, therefore, that updating such an SPD now could result not only in confusion but, by the time it is prepared, consulted upon, and adopted, its shelf life could be very limited indeed. It is therefore proposed that the existing SPD, whilst not perfect, remains functional, and should be retained until clarity on Government reforms are reached.
- 3.40 The second was to update our **Design Guide SPD**. However, for very similar reasons to the Developer Contributions SPD, there appears very limited value in updating it now due to the fundamental shift proposed by Government towards 'design codes' for specific areas. In addition, Government has recently issued its own National Design Guide, which to a significant degree achieves what an updated Design Guide SPD had in mind. Once again, therefore, it is proposed that the existing SPD, whilst not perfect (though it remains functional, especially when combined with the National Guide), be retained until clarity on Government reforms are reached.
- 3.41 Resources saved by not undertaking those two tasks will be redirected to finalising the Climate Change SPD (where we presently have no such SPD) and on commencing the update of the Local Plan (assuming Members agree to that recommendation).

4.1 FINANCIAL IMPLICATIONS/EQUALITY IMPACT ASSESSMENT

- 4.1 If the recommendations in this report are approved, then there are no financial implications arising, and actions can be covered by existing budgets, at least for the next 12-18 months. Thereafter, there may be some additional cost relating to the final stages of examining and adopting the updated Local Plan, perhaps a one-off cost of around £50,000. However, that cost will be a matter for Council to determine as and when the Local Plan progresses.

- 4.2 A Carbon Impact Assessment (CIA) concluded the following:

Directly, the recommendations in the agenda report will have a neutral effect. This is because the recommendations do not directly make decisions which subsequently have a carbon impact. Future decisions which flow from the recommendations (either by Government on a Planning Act or by this Council on the contents of a Local Plan / SPD) could have a negative or positive effect, but that will be a matter to assess and determine at the point of making those decisions.

4.3 An Equality Impact Assessment (INRA) is not required, for the same reasons as above.

5.0 APPENDICES

Appendix 1 – Local Development Scheme

<u>Background Documents</u>	<u>Location</u>	<u>Contact Officer</u>
East Cambridgeshire Local Plan, April 2015	Room12A The Grange Ely	Richard Kay Strategic Planning Manager (01353) 616245 E-mail: richard.kay@eastcambs.gov.uk