

Open

Cabinet

Additional Papers

Agenda Item 8.1

**Section 106 Planning Viability Priorities -
Recommendations from the Overview & Scrutiny
Committee from its meeting on 8th September 2020**

Agenda Item 8.2

**Responses to Planning Consultations -
Recommendations from the Overview & Scrutiny
Committee from its meeting on 8th September 2020**

To be held remotely
6pm

Wednesday, 16th September 2020



WYRE FOREST DISTRICT COUNCIL

**Cabinet
Wednesday 16th September 2020**

**Recommendations from the Overview and Scrutiny Committee
Tuesday 8th September 2020**

Section 106 Planning Viability Priorities

The Committee considered a report from the Head of Strategic Growth which sought to agree the prioritisation of allocating funding achieved through planning obligations across the various elements (such as education, highways and affordable housing) on sites where there is a shortfall in meeting the costs of all obligations following a viability assessment.

Members welcomed the report and fully supported the recommendation to Cabinet.

Recommend to Cabinet that:

The priority list set out in paragraph 3.10 of the report to the Overview and Scrutiny Committee is used to determine the allocation of s106 obligations where the viability of sites is deemed to be such that not all policy requirements can be met.

Background papers:

See the report on page 21 of the pdf at this link:

http://www.wyreforest.gov.uk/council/docs/doc56023_20200908_o_and_s_agenda.pdf

WYRE FOREST DISTRICT COUNCIL

**Cabinet
Wednesday 16th September 2020**

**Recommendations from the Overview and Scrutiny Committee
Tuesday 8th September 2020**

Response to Planning Consultations

The Committee considered a report from the Corporate Director: Economic Prosperity & Place which set out the proposed responses to the Government's recently published consultations regarding changes to the planning system.

The Committee fully discussed the report and draft responses set out in the two appendices. Members suggested a few minor amendments for the Corporate Director: Economic Prosperity and Place to weave into the proposed response to the Planning for the Future white paper.

Recommend to Cabinet that:

The responses set out in the appendices to the paper, subject to the minor amendments, are agreed.

Background papers:

See the report on page 2 of the pdf at this link:

http://www.wyreforest.gov.uk/council/docs/doc56023_20200908_o_and_s_agenda.pdf

Planning for the Future

White Paper August 2020

1. What three words do you associate most with the planning system in England?

A. Inclusive/Fair/Comprehensive

2(a). Do you get involved with planning decisions in your local area?
[Yes / No]

A. Yes

2(b). If no, why not?
[Don't know how to / It takes too long / It's too complicated / I don't care / Other – please specify]

A.

3. Our proposals will make it much easier to access plans and contribute your views to planning decisions. How would you like to find out about plans and planning proposals in the future?
[Social media / Online news / Newspaper / By post / Other – please specify]

A. As Local Planning Authority this will be direct.

4. What are your top three priorities for planning in your local area?
[Building homes for young people / building homes for the homeless / Protection of green spaces / The environment, biodiversity and action on climate change / Increasing the affordability of housing / The design of new homes and places / Supporting the high street / Supporting the local economy / More or better local infrastructure / Protection of existing heritage buildings or areas / Other – please specify]

A. Supporting economic growth that improves social, environmental and economic wellbeing/providing more affordable homes/reducing impact on climate change.

5. Do you agree that Local Plans should be simplified in line with our proposals?
[Yes / No / Not sure. Please provide supporting statement.]

A. No. The case for change is well made inasmuch as successive Governments (including this one) have tried to manage and change the planning system to suit various ends and that to continue to amend the system further is not necessarily going to be the best way forward. The Prime Minister's comments in the foreword to the consultation do, though, rather unfortunately, undermine the value of the existing planning system which has lasted the test of time because it is fundamentally still the most appropriate way in which to determine the future of land uses throughout the country. It is important in undertaking the 'root and branch' review of planning that the White Paper proposes to ensure that the 'baby is not lost with the bathwater'.

The current planning system which has a focus on ‘spatial planning’ embraces the understanding that planning is more than just designating land for a use on a plan; that is planning at its basest level. The proposals in the White Paper are an oversimplification of what a Local Plan should be about – integrating social, environmental and economic wellbeing into a multi-dimensional document which delivers a truly ‘spatial’ outcome. There is no mention of what the local authority’s vision and ambition for their area might be, all of which is part of the richness of a spatial strategy. If the Government adopts the simplified approach suggested it will revert the Local Plan to a series of land use allocations without ensuring the delivery of those wider societal needs. What is proposed in terms of ‘growth’, ‘renewal’ and ‘protected’ areas isn’t really radically different to the existing Local Plan process where larger scale land releases are proposed (i.e. Growth areas), brownfield redevelopment sites are allocated (i.e. Renewal areas) and areas such as Greenbelt, SSSI, AONBs etc are protected; so it is considered that whilst the Local Plan process would benefit from acceleration, the basis principles of enhancing social, environmental and economic wellbeing should not be lost at the expense of dumbing the document down to a land zoning plan. The Government must put the democratic decision making process, that is so fundamental to planning, at the heart of their proposals and not lose that at the expense of a simplified or more speedy process to acquire permission for new development..

6. Do you agree with our proposals for streamlining the development management content of Local Plans, and setting out general development management policies nationally?

[Yes / No / Not sure. Please provide supporting statement.]

A. No. Whilst a generic set of DM policies set at a national level is considered appropriate (as is the case currently), it is important that local authorities are able to provide additional DM guidance as they deem appropriate at the local level. The idea that the DM approach can be standardised runs contrary to the White Paper’s own proposals in terms of encouraging more community involvement as well as the ‘beautification’ agenda. The character and therefore the quality of local areas is because they are unique, and the preservation of that uniqueness is part of what makes parts of the country beautiful and distinct. A standardised approach to managing development with nationally set policies undermines that distinctiveness. Further, the Government will find it even more difficult than at present to get communities to engage in the planning process if they feel they have ‘no say’ in matters when they do engage because it’s all ‘set centrally’ at a national level. It is counterproductive to expect local engagement with no devolved authority to set a local mark on development.

7(a). Do you agree with our proposals to replace existing legal and policy tests for Local Plans with a consolidated test of “sustainable development”, which would include consideration of environmental impact?

[Yes / No / Not sure. Please provide supporting statement.]

A. Yes. The existing tests have become too process driven and less outcome driven and this had led to increasing challenge and delay to the adoption process; this should be streamlined.

7(b). How could strategic, cross-boundary issues be best planned for in the absence of a formal Duty to Cooperate?

A. Whilst the DtC is clearly not delivering the intended outcomes the Government does need to resolve the issue of matters which span administrative boundaries. The only sensible and clear manner to do this is via a modern replacement for the Structure Plan.

8(a). Do you agree that a standard method for establishing housing requirements (that takes into account constraints) should be introduced?
[Yes / No / Not sure. Please provide supporting statement.]

A. No. This is a difficult question to answer as it's already the case that the Government has adopted a standard method for housing requirements that takes into account constraints (such as Greenbelt or AONBs), it just doesn't arrive at the collective 300,000 number which Government has set. Setting the standardised methodology to achieve that number in the manner intended in the White Paper cannot be dressed up in any other way than the top down distribution of a housing requirement for each area, no longer based on local need, but on contributing to the national target. This again is counter intuitive to the White Paper's desire to increase local engagement; rather than engage, it is likely to pit communities against the planning system as they will feel that they have no say in the amount of new housing that their area has to provide. The notion of a centralised approach to determining local conditions which might justify an area providing fewer than the required number of dwellings is also rejected.

8(b). Do you agree that affordability and the extent of existing urban areas are appropriate indicators of the quantity of development to be accommodated?
[Yes / No / Not sure. Please provide supporting statement.]

A. Yes, as a method with which to calculate the standard methodology, using housing stock with an affordability adjustment is preferable to the current household projections basis.

9(a). Do you agree that there should be automatic permission for areas for substantial development (Growth areas) with faster routes for detailed consent?
[Yes / No / Not sure. Please provide supporting statement.]

A. No. There is a real danger that the combined 'dumbing down' of the Local Plan to a zoning map and the granting of automatic permissions will not create the quality of development that would otherwise be achieved through the DM process and will allow developers to 'cherry pick' those parts of the growth area development which are easier or more profitable to undertake and will result in other areas neglected or overlooked with a piecemeal approach to development that lacks cohesion. Further, this is once again inconsistent with the desire to see communities engage with the planning system. This automatic approval approach is a charter for developers to 'ask forgiveness, rather than permission' and create development which communities have no say in. If the Government does continue to progress this proposal it is imperative that a new fee regime accompanies it whereby developers,

land promoters and landowners pay a fee to have a site designated as a Growth area as the effect is the same as granting an outline [planning consent and it is important that the local authority is able to properly resource its teams to enable full and proper consideration of all of the implications for the development of areas designated as Growth areas.

9(b). Do you agree with our proposals above for the consent arrangements for *Renewal* and *Protected* areas?

[Yes / No / Not sure. Please provide supporting statement.]

A. No. again the concept of automatic approvals suggested here is not supported for the same reasons as stated above at 9(a).

9(c). Do you think there is a case for allowing new settlements to be brought forward under the Nationally Significant Infrastructure Projects regime?

[Yes / No / Not sure. Please provide supporting statement.]

A. No. Decisions on such matters no matter their scale should remain at the local level.

10. Do you agree with our proposals to make decision-making faster and more certain?

[Yes / No / Not sure. Please provide supporting statement.]

A. No. Some of the proposals covered by this question that are set out in the White Paper could be supported, such as, in part, the digitisation proposals, but even this cannot be supported in full. The idea that planning applications can be reduced to a binary series of numbers that can be read digitally is impossible to conceive as the planning process is a very visual one. Whilst it is clear that the Government sees the future of planning as a digitally automated approval process this completely undermines the very heart of planning which relies on the visualisation of development proposals and the democratic decision making process. Some elements of the process could be speeded up by digital means such as templates for advertisements and shorter application forms but digitising the validation process will simply create applications with shortcomings that then need to be resolved when the application is live and that simply lengthens the determination process. The concept of refundable fees is also rejected, the application fee is designed to cover the cost of determining the application (although Government has always failed to address the fact that the full cost is not in fact covered by the fee), it is not the price of 'buying the permission' that should be refunded if targets are not met. The planning system should not be allowed to lapse into a target driven process at the expense of it being outcome driven and supported by a transparent democratic decision making process.

11. Do you agree with our proposals for digitised, web-based Local Plans?

[Yes / No / Not sure. Please provide supporting statement.]

A. Yes this agreed in principle to enable a standardised format and easy access which will also assist cross administrative boundary sites and matters, however care must be had in making assumptions that this will enable everyone to access the information and some regard needs to be had to broadband access capabilities for some parts of the country as well as for access by those with less digital knowledge and capabilities. The impact of this on some of the protected groups needs to be taken account of in the equality impact assessment. Further explanation needs to be given about the expected role of the 'prop-tech' companies which are mentioned throughout the document.

12. Do you agree with our proposals for a 30 month statutory timescale for the production of Local Plans?

[Yes / No / Not sure. Please provide supporting statement.]

A. Yes, this is a suitable ideal to be aiming for, however in order for this timescale to be reached it has to be understood that it will take time for the full gamut of White Paper changes to be put in place and it could take some time before the 30 month timescale could be reasonably applied. It will also be necessary to ensure that local authorities are sufficiently resourced in advance of the adoption of this timescale for it to be realistically delivered. Government needs to take care with the degree of engagement proposed in the new timescale and process; based on the proposals the only meaningful consultation takes place at the end of 18 months when the Council submits the Plan to the Inspector. This could have one of two impediments; firstly it will be the first time that the authority will be aware of any sound reasons why the Plan might not be capable of implementation, what happens then? Is the Plan still submitted for the Inspector to deal with those issues that might arise? Secondly it will be the first meaningful engagement with the public, statutory consultees and stakeholders on the authority's plan and all of the response to that will be shunted to the inspector to consider and this has the potential to delay the adoption for the remaining 12 months of the 30 months.

13(a). Do you agree that Neighbourhood Plans should be retained in the reformed planning system?

[Yes / No / Not sure. Please provide supporting statement.]

A. Yes as they enable local community input into the planning system, but Government needs to be consistent; as stated above the idea of a 'top down' housing number requirement plus the streamlining of the consultation stages associated with the Local Plan, plus the grant of outline permission via the proposed growth areas in the plan will not garner local support such that communities will feel that they have a degree of control over what happens in their area and this may have a negative impact on the communities' view of the value of Neighbourhood Plans.

13(b). How can the neighbourhood planning process be developed to meet our objectives, such as in the use of digital tools and reflecting community preferences about design?

A. If neighbourhood planning is to truly be an integral part of the new planning system some other areas of the proposals set out in the White Paper will need to be

re-thought otherwise the value of engagement will be diminished (see answer to Q13(a) above).

14. Do you agree there should be a stronger emphasis on the build out of developments? And if so, what further measures would you support?

[Yes / No / Not sure. Please provide supporting statement.]

A. Yes. This is an area which the Government has overlooked in this overhaul of the planning system. It is not necessary to restate the numbers here of rates of planning permissions granted, nor the speed of decisions nor the number of new homes sat in unimplemented planning approvals, that is all well known, but an example can be found here <https://www.constructionenquirer.com/2020/02/20/one-million-homes-with-planning-permission-not-built/> where it suggests that in the past decade over a million homes have been granted consent but not implemented. The Government has mistaken the failure to deliver the national target for housing as all being the fault of the planning system and that fails to understand and respond to the failure of housebuilders to deliver those approvals at a faster rate. Whilst it is understood that housebuilders will build and release sites based on cashflow availability, there needs to be more challenge to the development industry about what changes they can make to increase the delivery of new homes. The Letwin report should have received far more coverage in this White Paper than it has and the Government should be doing more to address the impediments to build out that the report identifies, such as the shortage of skilled labour to deliver homes at the scale the Government expects. There is no mention in the White Paper of waste and minerals planning which cannot be overlooked if materials are going to be available to supply the construction industry to be able to build more units and faster. But the Government needs to go further; since the Fixing our Broken Housing Market paper the Government has failed to act in any meaningful way to put in place more penalties for developers and landowners who fail to implement residential permissions or to equip the local authorities with more powers to step in and take control of such sites. This White Paper once again fails to deal with this issue and until it is properly addressed no matter how much reform of the planning system takes place it continues to ignore the fact that delivery for the most part lies in hands of a few large scale housebuilders.

15. What do you think about the design of new development that has happened recently in your area?

[Not sure or indifferent / Beautiful and/or well-designed / Ugly and/or poorly-designed / There hasn't been any / Other – please specify]

A. Generally well designed due to the quality of the DM service which the Council operates, backed up by a Local Plan that reflects local support.

16. Sustainability is at the heart of our proposals. What is your priority for sustainability in your area?

[Less reliance on cars / More green and open spaces / Energy efficiency of new buildings / More trees / Other – please specify]

A. Energy efficient new buildings; production of renewable energy sources; provision of electric vehicle charging points; planting more trees.

17. Do you agree with our proposals for improving the production and use of design guides and codes?

[Yes / No / Not sure. Please provide supporting statement.]

A. Yes, the wider use of design guides and codes with inclusive involvement in their production is welcomed.

18. Do you agree that we should establish a new body to support design coding and building better places, and that each authority should have a chief officer for design and place-making?

[Yes / No / Not sure. Please provide supporting statement.]

A. No. Good design and the professional specialist to support it are not new concepts and shouldn't require another 'new body' to support the production of codes and guides. It would be far preferable for local authorities to be properly resourced to be able to have the design specialisation 'in house' or as a locally shared resource between a number of partner authorities. Requiring a specifically designated post at chief officer level within the authority is overly prescriptive, unnecessary and is not supported.

19. Do you agree with our proposal to consider how design might be given greater emphasis in the strategic objectives for Homes England?

[Yes / No / Not sure. Please provide supporting statement.]

A. Yes, one could be forgiven for asking "isn't this the case anyway?", if it isn't then it should be. However, in order for this to be effective, Government also needs to consider how HE can achieve this whilst at the same time satisfying the Treasury requirement to get the best value for the sale of HE owned land as the two are often incompatible bedfellows and in the experience of this local authority the Treasury requirement will always prevail.

20. Do you agree with our proposals for implementing a fast-track for beauty?

[Yes / No / Not sure. Please provide supporting statement.]

A. No, this is too simplistic and most likely to create controversy and be counter productive possible causing more delay to the process. The concept of 'beauty' will mean different things to different parties and ultimately is a judgement of subjectivity and taste, even if there are design codes and guides available. The concept of 'beauty' cannot be reduced to a black and white 'tick box' exercise, ultimately someone has to exercise judgement over what is beautiful. The idea of fast tracking a proposal which looks good also belies the complexity of other elements of the development which are also required to ensure that the proposal is acceptable; for example a 'beautiful' proposal which creates complex highway matters may not render it capable of being fast tracked.

21. When new development happens in your area, what is your priority

for what comes with it?

[More affordable housing / More or better infrastructure (such as transport, schools, health provision) / Design of new buildings / More shops and/or employment space / Green space / Don't know / Other – please specify]

A. Affordable housing/infrastructure/design quality.

22(a). Should the Government replace the Community Infrastructure Levy and Section 106 planning obligations with a new consolidated Infrastructure Levy, which is charged as a fixed proportion of development value above a set threshold?
[Yes / No / Not sure. Please provide supporting statement.]

A. Not sure. Whilst the opportunity to streamline and review the CIL and s106 arrangements is welcomed and a consolidation may be the most appropriate outcome there are some elements of what is being proposed which are of concern. In order to ensure that sites are built out successfully, viability has to be a consideration and this will be affected by local circumstances; the suggestion that there should be a minimum below which a levy would not apply is rejected as for smaller districts and where land values are lower, it may mean that vital infrastructure does not get provided. The proposal to 'back-end' the payment of levies and to levy at the point of occupation is also rejected. In many cases to enable to construction of larger development sites the infrastructure needs to go in first, not at the end. The Government's suggestion that local authorities could borrow against their levy implies that the initial cost of providing infrastructure should be borne by the taxpayer and then reclaimed from the developer, this idea is rejected, it should be for the developer to fully fund the infrastructure required to deliver their development. Further the idea of levying at point of occupation is also rejected as this will cause additional resource from the local authority to chase payment and at the same time most likely delay occupation with the real risk that the prospective new homeowner is the party that suffers most if developers are slow to pay.

22(b). Should the Infrastructure Levy rates be set nationally at a single rate, set nationally at an area-specific rate, or set locally?
[Nationally at a single rate / Nationally at an area-specific rate / Locally]

A. Locally. It is important that the levy reflects local costs and values and should remain the purview of the local authority, not central government.

22(c). Should the Infrastructure Levy aim to capture the same amount of value overall, or more value, to support greater investment in infrastructure, affordable housing and local communities?
[Same amount overall / More value / Less value / Not sure.
Please provide supporting statement.]

A. More value. It is important for local communities to see that new development provides all of the necessary infrastructure to ensure that it builds a community and not just endless housing estates. It is important for local government finance that costs of key infrastructure is not borne by the local population, but directly by the developer.

22(d). Should we allow local authorities to borrow against the Infrastructure Levy, to support infrastructure delivery in their area?
[Yes / No / Not sure. Please provide supporting statement.]

A. Yes, notwithstanding the comment above this added flexibility would be welcomed as long as it is not seen as the way to force local authorities to have to forward fund infrastructure that is otherwise the responsibility of the developer.

23. Do you agree that the scope of the reformed Infrastructure Levy should capture changes of use through permitted development rights?
[Yes / No / Not sure. Please provide supporting statement.]

A. Yes, with increasing flexibilities allowed through permitted development which can put the same pressure on local infrastructure which development permitted by virtue of a permission does, it is fair that the levy should apply equally to PD developments.

24(a). Do you agree that we should aim to secure at least the same amount of affordable housing under the Infrastructure Levy, and as much on-site affordable provision, as at present?
[Yes / No / Not sure. Please provide supporting statement.]

A. Yes, there should be no relaxation on the amount of affordable housing which should be provided.

24(b). Should affordable housing be secured as in-kind payment towards the Infrastructure Levy, or as a 'right to purchase' at discounted rates for local authorities?
[Yes / No / Not sure. Please provide supporting statement.]

A. The new levy should aim to ensure that new affordable homes of a good quality are provided on site by the developer and if the quality of development falls below the required standard then the local authority should be able to reject it and revert to requiring a cash contribution.

24(c). If an in-kind delivery approach is taken, should we mitigate against local authority overpayment risk?
[Yes / No / Not sure. Please provide supporting statement.]

A. The developer should not have the opportunity to claim overpayments.

24(d). If an in-kind delivery approach is taken, are there additional steps that would need to be taken to support affordable housing quality?
[Yes / No / Not sure. Please provide supporting statement.]

A. Yes. This is a curious question given the White Paper's confidence expressed elsewhere that good, even 'beautiful', design will be achieved through the application of codes and guides; under those circumstances it should not be possible for developers to build lower quality affordable homes, unless Government is suggesting that developers will cut corners and produce poorer homes because they

are affordable? The possibility of a distinction in design between market homes and affordable homes must be eliminated as it is now.

25. Should local authorities have fewer restrictions over how they spend the Infrastructure Levy?

[Yes / No / Not sure. Please provide supporting statement.]

A. Yes, the local authority and the community it represents should have maximum flexibility about how it spends its levy.

25(a). If yes, should an affordable housing 'ring-fence' be developed?

[Yes / No / Not sure. Please provide supporting statement.]

A. yes, it is considered sensible that a minimum amount of the levy is ringfenced to support the delivery of affordable housing to ensure that there is a good pipeline of delivery. Combined with the flexibility suggested by Q25 above it would then be possible for the authority, if it so wished, to add more of the levy to the affordable housing minimum amount.

26. Do you have any views on the potential impact of the proposals raised in this consultation on people with protected characteristics as defined in section 149 of the Equality Act 2010?

A. Regarding digitising accessibility to the local planning process, Government needs to ensure that those with protected characteristics who may find they become excluded from the planning system, is given careful consideration.