

Report of Chief Planning Officer**Report to Joint Plans Panel****Date: 31 January 2017****Subject: Planning reform update**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	☐ Yes	☒ No
Are there implications for equality and diversity and cohesion and integration?	☐ Yes	☒ No
Is the decision eligible for Call-In?	☐ Yes	☒ No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	☐ Yes	☒ No

Summary of main issues

1. Reforms to make the planning system quicker and simpler have been a feature of Government policy for the last few years and the pace of change is not abating.
2. The recently enacted Housing and Planning Act contains a raft of provisions relating to both changes to the planning process and policy directions to support housing growth in particular.
3. The Government has indicated that a Housing White Paper will be published in January 2017, but at the time of writing this report, it has not yet been produced. Again it is likely to contain provisions to support the delivery of new housing and is likely to provide a response to many of the outstanding consultations.
4. The Neighbourhood and Planning Bill is currently going through the parliamentary process and has two aims to help identify and free up more land to build homes on in order to give communities as much certainty as possible about where and when development will take place and to speed up the delivery of those new homes.

Recommendations

5. Members are recommended to note the report

1 Purpose of this report

- 1.1 The continuing pace of government reform of planning has not slowed down in the last 12 months; several pieces of legislation, white papers and bills have been issued or are at various stages in the parliamentary process. This report sets out the main Government planning reform proposals in respect of England: the proposed Housing White Paper, the Housing and Planning Act and the Neighbourhood Planning Bill and seeks to update members on the latest developments.

2 Background information

- 2.1 Reforms aimed at making the planning process quicker and simpler to use, in particular to support house building, are high on the Government's agenda. In the December 2015 Consultation on proposed changes to national planning policy, the Government proposed a number of changes to the National Planning Policy Framework (NPPF), to better support the development of housing on certain types of land. Feedback is currently being analysed and a response to this consultation has not yet been published.
- 2.2 Following announcements made at the Conservative Party Conference 2016 the Government is expected to publish a Housing White Paper which will contain a number of planning policies and draw together a number of outstanding Government responses on planning consultations. In particular, it is expected that the White Paper will contain provision on the resourcing of local authority planning departments in terms of skills and finances. The report is due in January 2017.
- 2.3 The Housing and Planning act was enacted in May 2016 and the technical consultation on implementing the changes closed in April 2016. We are awaiting the Government response to this consultation.
- 2.4 Further reform to the planning system is provided in the Neighbourhood Planning Bill 2016-17 which is progressing through Parliament. The Bill will make some changes to the neighbourhood planning system, the use of pre-commencement planning conditions and the compulsory purchase process. The aim is to speed up the delivery of new homes.

3 Main issues

3.1 Forthcoming Housing White Paper

- 3.1.1 The Government has indicated that there will be a "Housing White Paper" to set an overall strategy for building new homes. The White Paper is expected to be published in January 2017 and the Government indicated that it may contain provisions in the following areas:
- Skills agenda: making sure that local planning departments have people with the right skills and that there are enough people within the construction industry, with the right skills, to build homes

- Incentives to encourage councils to use the duty-to-cooperate more effectively in respect of housing provision
- “Minimising” planning decisions that are taken contrary to Neighbourhood Plan policies
- Policies on the setting of planning fees
- The operation of the Community Infrastructure Levy and its relationship to section 106 planning obligations
- The situations where the Secretary of State may use Neighbourhood Planning Bill powers to direct two or more Local Planning authorities to make a joint Local Plan.
- Time and costs involved in making a Local Plan
- Measures to diversify the market and increase the different types of homes, including custom build
- The relationship between Neighbourhood Plans and a local planning authority’s potential lack of five year housing supply

3.2 Housing and Planning Act 2016

- 3.1 On publication of the then Housing and Planning Bill the Government said it would kick-start a “national crusade to get 1 million homes built by 2020” and transform “generation rent into generation buy.” The supply-side measures in the Bill are primarily focused on speeding up the planning system with the aim of delivering more housing. There is also a clear focus on home ownership, with measures to facilitate the building of Starter Homes and self/custom build housing. The Bill was presented on 13 October 2015 and received Royal Assent on 12 May 2016.
- 3.2 In February 2016 the Government published an *Implementation of planning changes: technical consultation* covering many areas of the Act. The consultation closed on 15 April 2016 and a Government response has not yet been issued.
- 3.3 A number of sections of the Act on planning came into force from the day the Act received Royal Assent:
 - Local Planning authority duty to keep a register of particular kinds of land;
 - Processing of planning applications by alternative providers; and
 - Urban development corporations
- 3.4 In the majority of cases where the sections of the Act grant a power to the Secretary of State to make further regulations, these have not yet been made and are described below.
- 3.5 Starter homes

- 3.5.1 The Act is intended to put into legislation the Government's commitment to provide a number of Starter Homes on sites above a specified size, sold at a discount of at least 20% of the market value, for first-time buyers under the age of 40. The Act puts a general duty on all planning authorities to promote the supply of Starter Homes, and provides a specific duty, which will be determined in later regulations, to require a certain number or proportion of Starter Homes on site.
- 3.5.2 On 23 March 2016 the Government published a *Starter homes regulations: technical consultation* which closed on 27 May 2016. A Government response to the consultation has not yet been issued.
- 3.6 Self-build and custom housebuilding
- 3.6.1 The Act adds to and amends the Self-build and Custom Housebuilding Act 2015, which requires local authorities to keep a register of people seeking to acquire land to build or commission their own home. The Act specifically requires local authorities to grant "sufficient suitable development permission" of serviced plots of land to meet the demand based on this register. Planning Practice Guidance on Self-build and Custom Housebuilding was published by the Government on 1 April 2016.
- 3.7 Neighbourhood Planning
- 3.7.1 The Act introduces measures designed to speed-up and simplify the Neighbourhood Planning system. It gives the Secretary of State powers to set certain time limits for parts of the process of making a neighbourhood development plan or order. It also allows the Secretary of State to intervene in the process if local authorities are not using their Neighbourhood Planning powers within these prescribed limits.
- 3.8 Local Plans
- 3.8.1 With the aim of encouraging more local authorities to have a Local Plan in place, the Act gives the Secretary of State greater powers to intervene in the Local Plan making process. Specifically it would allow the Secretary of State to intervene if a local authority was failing or omitting to do anything it is necessary for them to do in connection with the preparation, revision or adoption of a Local Plan.
- 3.8.2 The Government's February 2016 *Implementation of planning changes: technical consultation* proposes to prioritise Government intervention where:
- there is under delivery of housing in areas of high housing pressure;
 - the least progress in plan-making has been made;
 - plans have not been kept up-to-date;
 - intervention will have the greatest impact in accelerating Local Plan production
- 3.9 Planning "permission in principle" and local registers of land

- 3.9.1 To enable more housing to be built on brownfield land, the Act introduces a new duty for local authorities to keep a register of brownfield land within its area. This would then allow the Secretary of State to grant “planning permission in principle” (PIP) for housing on sites identified in these registers. PIP would then have to be combined with a new “technical details consent” granted by the local authority before development could go ahead.
- 3.9.2 The Government proposed that there should be three “qualifying documents” that would be capable of granting permission in principle. These are: future Local Plans; future Neighbourhood Plans; and brownfield registers. Permission in principle granted from these documents would last for five years. It is also proposed that applicants for minor development should be able to apply for permission in principle on applications. The consultation proposed that the “in principle matters” should relate to the location, the uses and the amount of development on a particular site.
- 3.9.3 In relation to the registers of brownfield land, the consultation proposed that a “key component” of the evidence base for this work would be the local authority’s Strategic Housing Land Availability Assessment process. Sites would be assessed against specific criteria that will be set out in regulations to ensure that they are suitable for housing. The Government expects the register to be updated on an annual basis.
- 3.9.4 The consultation restated the Government’s aim to ensure that 90% of suitable brownfield sites have planning permission for housing by 2020. It also made clear the Government’s intention to introduce measures to ensure that progress is made against this target by local authorities; LPA that have failed to make sufficient progress against the brownfield objective would be unable to claim the existence of an up-to-date five year housing land supply when considering applications for brownfield development, and therefore the NPPF’s presumption in favour of sustainable development would apply.
- 3.9.5 A response to this part of the consultation has not yet been issued.
- 3.10 Designation for poor performance
- 3.10.1 Provisions were introduced in the Growth and Infrastructure Act 2013 to designate poorly performing authorities in terms of speed and quality of decision making on major applications. The Housing and Planning Act will extend the ability to designate in relation to non-major applications. The *Implementation of planning changes: technical consultation* proposed the following threshold ranges for designation in relation to non-major applications:
- speed of decisions: where authorities fail to determine at least 60-70 per cent of applications for non-major development on time, over the two year assessment period, they would be at risk of designation
 - quality of decisions: where authorities have had more than 10-20 per cent of their decisions on applications for non-major development overturned at appeal, they would be at risk of designation

3.11 Financial benefits

- 3.11.1 The Act will require local authorities to produce a report of the financial benefits associated with accepting a planning application. This could, for example, include income from the Community Infrastructure Levy and grants or other financial assistance from Government such as the New Homes Bonus.

3.12 Pilot schemes for competition in processing planning applications

- 3.12.1 The Act will give the Secretary of State the power, by regulations, to introduce pilot schemes for competition in the processing (but not the determining) of applications for planning permission.
- 3.12.2 The *Implementation of planning changes: technical consultation* asked for views on who should be able to compete for the processing of planning applications, which applications they could compete for and on how fee setting in competition test areas should operate. A response to this part of the consultation has not yet been issued.

3.13 Section 106 planning obligations

- 3.13.1 A clause in the Act provides for a dispute resolution process to speed up section 106 negotiations. The process involves the appointment of a person to help resolve outstanding issues in relation to section 106 planning obligations.
- 3.13.2 *Implementation of planning changes: technical consultation* provides further information about how the proposed dispute resolution mechanism would work.
- 3.13.3 This part of the Act also provides the Secretary of State with powers to restrict the enforcement of planning obligations in relation to affordable housing in certain situations; consultation on the use of this power will be forthcoming, which would be introduced through regulations.

3.14 Neighbourhood Planning Bill

- 3.15 The Neighbourhood Planning Bill was published and had its First Reading on 7 September 2016; a second reading in the House of Lords is scheduled for 17 January 2017.

3.16 The two “key aims” of the Bill are to:

- help identify and free up more land to build homes on to give communities as much certainty as possible about where and when development will take place
- speed up the delivery of new homes, in particular by reducing the time it takes to get from planning permission being granted to building work happening on site and new homes being delivered

- 3.17 On neighbourhood planning, the Bill introduces a new procedure to allow neighbourhood plans to be modified. It also deals with the situation of where a new neighbourhood plan is needed, but covering a slightly different geographical area to the previous one. This part of the Bill is also the subject of an open

consultation, *Implementation of Neighbourhood Planning provisions* in the Neighbourhood Planning Bill. The Government issued the response to this consultation in December 2016, and subject to Royal Assent of the Neighbourhood Planning Bill, intend to implement the proposals as set out in the consultation. This also includes a formal review period for the Statement of Community Involvement.

- 3.18 The Bill also provides that pre-commencement planning conditions can only be used by Local Planning authorities where they have the written agreement of the developer. If the developer does not agree to the pre-commencement condition then the local authority has the option to refuse the planning permission. These provisions were the subject of a consultation: Improving the use of planning conditions, a separate report on the agenda of this meeting describes the government response to this consultation.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 This information is presented for information only and there has not been the need for consultation

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 There are no specific equality considerations arising from this report.

4.3 Council policies and City Priorities

- 4.3.1 Housing Growth is one of the breakthrough projects. Measures in the new legislation and further proposals may have a significant impact on the both in terms of housing delivery and in the planning process.

4.4 Resources and value for money

- 4.4.1 There are no specific implications arising from this report.

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 There are no specific implications arising from this report.

4.6 Risk Management

- 4.6.1 There are no specific implications arising from this report.

5 Conclusions

- 5.1 It is clear from the last few years, that the government has the reform of the planning system firmly within its sights. The latest round of Bills and Acts further supports the government's aim of simplifying the system and stimulating the economy through supporting development. This is very clear to see in relation to speeding up the delivery of new homes in particular. We are still awaiting the response to the December 2015 consultation on proposed changes to national

planning policy, where the Government proposed a number of changes to the National Planning Policy Framework, to support better the development of housing on certain types of land.

- 5.2 The new thresholds for local planning authorities to meet in relation to speed of decision making and quality of decision making are further evidence of the approach the government is taking to ensure there is an efficient and effective planning system; authorities must continually improve their processing timescales for both major and non-major applications and demonstrate the delivery of high quality decision making.
- 5.3 The forthcoming Housing White Paper is expected to set an overall strategy for building new homes and to boost housing supply. The implications of this will no doubt have an impact on local planning authorities and we await the detail.

6 Recommendations

- 6.1 Members are recommended to note the report.

7 Background documents¹

¹ The background documents listed in this section are available for inspection on request for a period of four years following the date of the relevant meeting. Accordingly this list does not include documents containing exempt or confidential information, or any published works. Requests to inspect any background documents should be submitted to the report author.