

Cheltenham Borough Council
Cabinet – 13th October 2020
Response to ‘Planning for the Future’

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| Accountable member | Councillor Atherstone, Cabinet Member for Economy and Development |
| Accountable officer | David Oakhill |
| Ward(s) affected | All |
| Key/Significant Decision | No |
| Executive summary | <p>The Government are currently consulting on ‘Planning for the Future’, proposed reforms to the Town and Country Planning System in England. As drafted, the proposed reforms would represent the most significant change to the planning system since WW2.</p> <p>This paper provides the basis for a response to that consultation, setting out the core matters on which the response will be based as follows:</p> <ul style="list-style-type: none"> • Climate change must form the central tenet of any reforms to the planning system, given the role that land use has in attainment of tackling climate change; • Any planning reforms must address planning in its fullest sense. The consultation document focuses on housing delivery as opposed to the breadth of matters planning relates too; • The desire to enhance public participation in the plan making process is welcomed. Any changes which reduce the opportunity for public participation in the planning process, particularly the planning application process, would represent a loss of local democracy and lead to poor outcomes, including a negative impact on community cohesion; • The introduction of a form of zonal planning needs to be more sophisticated than that presented in Planning for the Future to avoid an imbalance in the provision of housing vs the provision of employment, educational, cultural and wellbeing opportunities; • The centralisation of control over planning may be at the cost of local democracy and decision making; • The simplification of the development levy system is welcomed in principle, but detail is required to understand its impacts and implementation. <p>Government’s consultation document presents a range of technical questions which are not repeated here. This Cabinet paper presents a summary of the main matters arising and the responses to those main matters. Officers, in consultation with the Cabinet Member for Economy & Development, will respond to the detailed and technical questions, using this Cabinet Paper as a basis for those responses.</p> |
| Recommendations | 1. That this Cabinet Paper forms the basis of the Council’s |

response to 'Planning for the Future'

- 2. That responsibility for preparing and submitting the Council's response to 'Planning for the Future', including the detailed/technical questions included in the consultation be delegated to the Head of Planning in consultation with the Cabinet Member for Economy and Development**

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| Financial implications | None at this stage. The implementation of planning reforms would likely have financial implications for the authority. Until such a time that reforms are confirmed it is not possible to accurately reflect those financial implications. |
| Legal implications | None at this stage. The implementation of planning reforms would likely have legal implications for the authority. Until such a time that reforms are confirmed it is not possible to accurately reflect those legal implications. |
| HR implications (including learning and organisational development) | None at this stage. The implementation of planning reforms may have HR implications for the authority. Until such a time that reforms are confirmed it is not possible to accurately reflect those HR implications. |
| Key risks | Proposed planning reforms would have a significant impact on the way that development is planned for and delivered across Cheltenham. |
| Corporate and community plan Implications | None at this stage. The implementation of planning reforms may have corporate and community plan implications. Until such a time that reforms are confirmed it is not possible to accurately reflect those corporate and community plan implications. |
| Environmental and climate change implications | None at this stage. The implementation of planning reforms may have environmental and climate change implications. Until such a time that reforms are confirmed it is not possible to accurately reflect those environmental and climate change implications. |
| Property/Asset Implications | None at this stage. The implementation of planning reforms may have Property/Asset implications for the authority. Until such a time that reforms are confirmed it is not possible to accurately reflect those Property/Asset implications. |

1. Background

- 1.1 The Government are currently consulting on 'Planning for the Future', proposed reforms to the planning system in England. As drafted, the proposed reforms would represent the most significant change to the planning system since WW2. The proposed changes seek to reform, streamline and modernise the planning system, bring a new focus to design and sustainability, improve the system of developer contributions to infrastructure, and ensure more land is available for development where it is needed. The reforms aim to 'cut red tape' and align with the governments 'Build, Build, Build' agenda.
- 1.2 Planning for the Future makes clear the Governments dissatisfaction with the current planning system in England, with the forward by the Prime Minister stating:
- "Designed and built in 1947 it [the planning system] has, like any building of that age, been patched up here and there over the decades... The whole thing is beginning to crumble and the time has come to do what too many have for too long lacked the courage to do – tear it down and start again".*
- 1.3 'Planning for the Future' is prefaced with the real and/or perceived 'criticisms' of the existing planning system in England. These reportedly include complexity, a lack of certainty, the speed (or lack thereof) in plan making and decision making, and ultimately the system failure to enable a sufficient number and range of homes to be built to cater for growing demand. The consultation documents outlines the governments responses to these current problems in the form of planning reform.
- 1.4 The proposed reforms would change the way that land is allocated and considered for development, and the way in which infrastructure provision is funded through new development. The reforms propose the introduction of a form of zonal planning, whereby all land in Cheltenham (and indeed England) would be designated/zoned/categorised for one of three purposes:
- 'Growth' zone – areas suitable for new substantial new development (for example North West Cheltenham and West Cheltenham). In zoning land for 'Growth', planning permission in principle (or outline planning permission) would be automatically given, with 'reserved matters' (for example design) still needing planning permission.
 - 'Renewal' zone – existing built areas in need of renewal or regeneration. In zoning land for 'renewal' it is currently unclear whether planning permission in principle would be given or not, but there is an assumption in favour of development. Matters such as design would still need planning permission
 - 'Protected' zone – for example AONB, Green Belt, Conservation Areas, Open Countryside. These areas would remain 'protected' and planning permission would still be required for development and/or the change of use of land.
- 1.5 Zonal planning would represent a deregulation of the planning system, and is a system which typically applies prescribed rules to the assessment of development, as opposed to the current planning system which applies policies and professional judgement in a regulated manner.
- 1.6 Public participation in the planning system would be encouraged through the digitisation and standardisation of plan making, but the role of the public in planning applications would likely significantly reduce. The timeframes for plan making and application decision taking would be significantly accelerated, and failure to achieve set timeframes would incur sanctions. The role of elected members in the planning application process is unclear and may be undermined where set timeframes for determination are imposed.
- 1.7 Infrastructure provision to support new development would be funded through a nationally set development levy, replacing the current s106 and Community Infrastructure Levy.

1.8 The full 'Planning for the Future' consultation document is provided at Background Paper 1. It presents a wide range of proposals and concepts which are not repeated here, and poses a wide range of questions, many of them technical. Responses to the consultation are due at the end of October. In responding to the consultation the Council will provide:

- A cover letter identifying the key matters of interest to the council
- Responses to the variety of questions posed in 'Planning for the Future'

This Cabinet paper forms the basis of the Council's response, with the final response being prepared by the Head of Planning in consultation with the Cabinet Member for Economy and Development.

1.9 A cross party Planning Liaison Member Working Group meeting will be held in early October in advance of Cabinet on the 13th October 2020 to discuss 'Planning for the Future'. Any new, significant matters arising will be presented to Cabinet by way of an update.

1.10 A separate consultation on changes to the current planning system has also been undertaken by Government, albeit on a shorter timeframe. The council's response to those changes is attached as Appendix 2.

2. Reasons for Recommendations

2.1 There are a wide range of concepts and ideas raised in 'Planning for the Future'. What follows is a reflection of the core issues arising that will form the basis of a detailed response to the consultation from Cheltenham Borough Council.

2.2 In general, there is recognition that the planning system in England could be improved. The system is at times complex and can be challenging for stakeholders and the public at large to engage in in a meaningful way. The country is facing unprecedented economic challenges and accelerating development would be one way to stimulate economic growth. Cheltenham Borough Council is acutely aware of the challenges we face locally and is keen to continue to engage with Government and key stakeholders on improvements to the planning system. From Cheltenham Borough Council's perspective, there are a number of positive proposals but also a number of concerns.

2.3 Overall, whilst 'Planning for the Future' presents a range of concepts and ideas, the level of detail contained within the consultation does not allow for a thorough understanding, analysis and response to proposed reforms and their full implications. At this stage it is unclear when more detail will be provided. Inevitably this leads to assumptions being made and questions being raised. The Council await the publication and consultation on the detail to support the proposed reform before forming a final view.

2.4 Place shaping is an important matter for Cheltenham and the planning system plays a role in this authority's desire to create a sustainable settlement for the future. It allows full consideration of the social, economic and environmental circumstances of the town, and enables us to provide a vision for the town, using the planning system to deliver that vision on the ground for the benefit of the community at large. Simplification of the planning system in the way proposed may lead to a form and type of development that diverges from our aspirations. The role that planning has in the economic, social and environmental advancement must be properly considered.

2.5 There are a number of proposals in 'Planning for the Future' which point to the centralisation of control over planning including:

- the setting of housing requirements for local authorities by central government

- the setting of development management policies and rules by central government
- the setting of a development levy by central government
- the imposition of central government control and/or sanctions and financial penalties in the event that local authorities fail to achieve timeframes for plan making and decision making, or 'loose' at planning appeals
- the setting of planning application fees by central government

These centralised controls, combined with proposals to reduce participation in planning application (or similar) decision making processes are a cause of great concern and would represent a significant degradation of local democracy.

- 2.6** 'Planning for the Future' is heavily focused on housing delivery and the problems the planning system creates for delivery, with a stated desire to ensure 300,000 houses per annum are delivered in England. This would represent a significant increase in housing delivery. There is clearly a need to increase the delivery of homes, particularly affordable homes to cater for a growing demand for a range of tenures and in Cheltenham's case assist in the retention of a younger population. The level of housing to be delivered needs to be justified, and the consultation document does not evidence the claim that 300k homes per annum are needed in the England. Whilst the method for determining housing need can of course be improved, the proposal to impose housing targets without allowing local debate and taking into account local circumstance will remove the ability for local authorities to make a balanced judgement.
- 2.7** Reforming the planning system alone and as proposed will not significantly increase housing delivery. The Local Government Association highlights that up to a million more houses have been granted planning permission than have been built over the past decade. A simple analysis of completions per site by major housebuilders reveals that on average, between 45-50 homes a year are completed on any given site in England, no matter its size. This clearly reflects a range of factors including the control of supply and resource and skill capacity within the house building sector.
- 2.8** To increase housing delivery, planning reforms need to go further. 'Land banking' needs to be properly addressed through a combination of incentives and consequences. Zoning may well have unintended consequences on land banking, with the zoning of land lasting in perpetuity vs the existing planning permission process being time limited. Different delivery models of development must be encouraged through legislation and the commentary on this in the consultation paper are welcomed.
- 2.9** Affordable housing is a key issue in Cheltenham, as in many other areas. Planning for the Future's commitment to ensure that planning reforms would not decrease the provision of affordable housing is very welcome. Alternative types of affordable housing are proposed (for example First Homes) which will serve a certain market. The provision of affordable housing through the planning system must ensure that those in greatest need are catered for. This authority has objected to the government proposal to temporarily increase the site size threshold for affordable housing provision (for 11 or more houses on a site to 40-50 houses on a site) as this will have a significant detrimental impact on the number of affordable homes provided in the town. Any proposals to roll this proposal forward in a new planning system should be resisted in the strongest possible terms to avoid a reduction in the number of affordable homes to be provided in the town. In the Council's submission to government on temporary changes to the current planning system it has been noted that a 40 dwelling threshold would result in a 29% reduction in affordable housing delivery (i.e. 95 affordable homes), with a significant 40% reduction in affordable housing delivery (i.e. 130 affordable homes) for a 50 home threshold, between now and 2025..
- 2.10** Planning is about much more than housing though. Cheltenham Borough Council has declared a

Climate Emergency and the use of land has a profound effect on the climate. Climate change must be the 'golden thread' that runs through any reforms to the planning system. Planning for the Future misses the opportunity to tackle climate change through planning.

- 2.11** Sustainable economic development is reliant on the planning system in identifying land for employment, providing infrastructure to support economic development and enabling change to support an evolving economy. The future of town centres, particularly as a result of the Covid-19 pandemic is of significant concern for Cheltenham Borough Council. Any proposed planning reforms must place economic development on an equal footing to housing delivery.

Plan Making - General

- 2.12** The proposal to enhance public engagement in the plan making process through the use of technology is to be welcomed. Using a range of consultation methods from 'traditional' to technology based will encourage participation from a wider audience, particularly a younger audience who will be most influenced by planning decisions made today.
- 2.13** Zonal planning will represent a major change for planning in England and the concept is well understood by Cheltenham Borough Council. Zonal planning traditionally means the deregulation of the planning system, through zoning land for certain purposes and providing objective rules to create certainty. Typically, where the rules of a zone are complied with planning permission is automatic. This means far more emphasis is placed on the plan making process. The Council is concerned that proposals to simplify and standardised the evidence base to support local plans, together with the desire to significantly accelerate the production of local plans (initially 30 months in areas without a local plan and 42 months in areas with local plans), may result in unsustainable patterns of development, negative and unintended consequences of development arising, and serve to undermine the desire for greater public participation
- 2.14** The proposed 'zones' or categorisation of land into three broad areas lacks the level of sophistication and detail to properly control the use of land. Typically zonal planning systems not simply identify land suitable for growth, renewal and protection, but define what land should be used for (for example housing, employment, culture etc). Without this detail, land will be used to yield the best financial return, resulting in an imbalance of land uses and creating situations where the economic development needs of an area may not be able to be met because of the demand for housing land for example. Any zoning proposals need to be more developed to reflect this.
- 2.15** The proposal to enhance the role of design codes and guides, and the continuation of neighbourhood planning seem to 'jar' with a zonal planning system where decisions are based on rules and objective criteria and become more formulaic.

Plan Making – Strategic Planning

- 2.16** Cheltenham Borough Council relies on strategic planning, in the form of the Cheltenham, Gloucester and Tewkesbury Joint Core Strategy (JCS) to deliver the development needs of a growing population. The administrative area of the borough are constrained, and in order to deliver the most sustainable form of development cooperation with neighbouring authorities is essential. 'Planning for the Future' proposes the removal of the 'duty to cooperate', the mechanism by which local authorities work together to plan for growth across administrative boundaries.
- 2.17** Imposing housing delivery targets nationally on all local authorities together with a desire to significantly increase housing numbers will, we believe, mean that the wider Cheltenham area (beyond administrative boundaries) will be asked to accommodate significant levels of growth. The infrastructure to support this level of growth must be properly planned and funded. 'Strategic Planning' is essential to make development successes, and for areas such as Cheltenham the 'duty to cooperate' or similar is essential and should be retained.

Planning Proposals and Decision Making

- 2.18** The implementation of zonal planning should increase certainty for the development industry. To accelerate housing delivery through the planning application process, the white paper suggests providing certainty through plan making including setting development management policies at a national level, simplifying information requirements for planning applications and setting fixed timeframes for the determination of planning applications.
- 2.19** Setting development management policies at a national level would remove the ability for local authorities to take into account local circumstances in consultation with the community. The simplification of information supporting planning applications may reduce the quality of development, give rise to negative impacts that have not been considered and/or lead to the refusal of applications that may have otherwise been supported. Having fixed timeframes for decision making and financial penalties for failing to meet them requires an enhanced level of investment in Local Planning Authority functions to ensure that there are sufficient resources available to consider and process applications in a timely manner. This could be achieved through enhanced planning application fee levels nationally or the ability of local authorities to determine planning application fees at a local level.
- 2.20** Planning for the Future proposals appear to suggest removing public participation from the planning application process would represent a significant degradation of the democratic process. It is only when firm proposals are presented that the public can truly understand the impacts of proposed development, not through plan making.
- 2.21** Public engagement in the planning making process is essential. The use of land has an effect on the lives of everyone, from applicants to neighbours to the community. Development has both positive and negative effects on those involved, and those impacts are only fully understood and considered when the public can participate fully in the planning process, from plan making to individual application decision making. Through understanding the views of a community their needs can be met and impacts can be mitigated. The Council is supportive of the desire for enhanced community involvement in the plan making process but is very concerned about any proposal to remove community/public participation in the planning application decision making process.
- 2.22** This concern equally applies to the role of locally elected members, particularly through the Planning Committee process. The role of a planning committee is unclear but would likely become challenging where decisions are based on set rules and where fixed timeframes are imposed on decision makers. Removing the right for public participation in the planning application process is objected to in the strongest possible terms.
- 2.23** A proposal to fast track applications for 'beautiful' developments makes sense in principle. Determining what a 'beautiful' development comprises should be a matter for local interpretation taking into account local circumstances and context.

Infrastructure Provision

- 2.24** The principle of introducing a standard 'development levy' to capture land value uplift as a result of development to fund infrastructure is welcomed. This should reflect local circumstances, and setting this level nationally without any local variance is not supported. The ability to collect and determine how this levy is spent locally is welcomed, but there needs to be clarity about how such collection and spend would operate in a two tier local authority area. The ability for local authorities to borrow against anticipated levy income has merit, but the risk profile of such an initiative is high. Consideration should be given to additional tools and methods for reducing this risk, including CPO powers and government backed loans. There clearly needs to be a careful balance between ensuring that development contributes toward infrastructure provision whilst remaining viable. It is likely that Government initiatives such as the Housing Infrastructure Fund will need to continue and be enhanced to ensure that the delivery of infrastructure does not fetter

the delivery of planned development.

Other Matters

- 2.25 To accelerate plan making and decisions making whilst ensuring high quality outcomes, it is essential that local authority planning departments are appropriately resourced and funded. Proposals for skills and resource plans in Planning for the Future are a recognition of this. Obviously having the finances available to ensure appropriate resources are in place is essential. The introduction of zones, particularly ‘growth’ zones have the potential to have significant financial consequences for local authorities as the need to apply for planning permission for large scale development will be significantly scaled back. Mechanisms are required to ensure that those who benefit from the planning system pay for the planning system. This should include developer contributions to the plan making process and the ability for local authorities to set planning application fees locally.
- 3. **Alternative options considered**
 - 3.1 The two alternatives are to alter the thrust of the proposed response or not respond at all. The proposed response represents the considered views of the authority.
- 4. **How this initiative contributes to the corporate plan**
 - 4.1 Until the nature of planning reforms are confirmed, the contribution of the reforms to the corporate plan are difficult to accurately quantify.
- 5. **Consultation and feedback**
 - 5.1 Internal consultation, including with Cheltenham Borough Homes, on detailed matters has taken place.
 - 5.2 An all member briefing took place on the 14th September and a Parish Council briefing took place on the 30th September. A cross party Planning Liaison Member Working Group meeting will take place in early October.
- 6. **Performance management –monitoring and review**
 - 6.1 Not applicable. Further consultation on planning reforms will be presented to elected members in due course.

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| Appendices | <ul style="list-style-type: none"> 1. Risk Assessment 2. CBC Response to proposed changes to the current planning system |
| Background information | <ul style="list-style-type: none"> 1. Planning for the Future consultation document |

| The risk | | | | Original risk score (impact x likelihood) | | | Managing risk | | | | |
|---|---|---------------|-------------|---|----------------|-------|---------------|--|--|---------------------|------------------------------|
| Risk ref. | Risk description | Risk Owner | Date raised | Impact 1-5 | Likelihood 1-6 | Score | Control | Action | Deadline | Responsible officer | Transferred to risk register |
| | Proposed planning reforms would have a significant impact on the way that development is planned for and delivered across Cheltenham. | David Oakhill | 26/09/2020 | 5 | 4 | 20 | | Respond to 'Planning for the Future' outlining CBC's thoughts on planning proposals. Take every opportunity to influence the final design of any reforms to the planning system. Keep a 'watching brief' on planning reform developments and respond to any further consultations. | 30/10/2020 Ongoing Ongoing | David Oakhill | |
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| <p>Explanatory notes</p> <p>Impact – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical)</p> <p>Likelihood – how likely is it that the risk will occur on a scale of 1-6 (1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability)</p> <p>Control - Either: Reduce / Accept / Transfer to 3rd party / Close</p> | | | | | | | | | | | |

