Report to:	Cabinet	**Date of Meeting:**	1 October 2020
Subject:	Planning White Paper		
Report of:	Chief Planning Officer	**Wards Affected:**	(All Wards);
Portfolio:	Cabinet Member - Planning and Building Control		
Is this a Key Decision:	No	**Included in Forward Plan:**	No
Exempt / Confidential Report:	No		

Summary:

To inform Cabinet Members of the recently published Planning White Paper for consultation and the implications this will have for Planning Services.

Recommendation(s): That:

(1) the report be noted; and

(2) in consultation with Cabinet Member for Planning and Building Control that the Council submit a formal response before 31st October 2020

Reasons for the Recommendation(s):

To allow Cabinet Members to express views on the Council's draft response to the Planning White Paper.

Alternative Options Considered and Rejected: (including any Risk Implications)

None

What will it cost and how will it be financed?

(A) Revenue Costs

N/a

(B) Capital Costs

N/a

Implications of the Proposals:

This report is just seeking views to allow the Council to submit formal comments to the government's proposed changes to the planning system, as set out in the Planning White Paper. Whilst there will be resource, legal and equalities implications of the Council enacting the provisions of the proposals, if and when enacted, these will be set out at an appropriate time when a new Local Plan is progressed.

Resource Implications (Financial, IT, Staffing and Assets): There are no resource implications with submitting comments to a consultation
Legal Implications: There are no legal implications with submitting comments to a consultation
Equality Implications: There are no equality implications with submitting comments to a consultation

Contribution to the Council's Core Purpose:

Protect the most vulnerable: n/a
Facilitate confident and resilient communities: n/a
Commission, broker and provide core services: n/a
Place – leadership and influencer: n/a
Drivers of change and reform: n/a
Facilitate sustainable economic prosperity: n/a
Greater income for social investment: n/a
Cleaner Greener n/a

What consultations have taken place on the proposals and when?

(A) Internal Consultations

The Executive Director of Corporate Resources and Customer Services (FD6122/20) and the Chief Legal and Democratic Officer (LD4313/20) have been consulted and any comments have been incorporated into the report.

(B) External Consultations

Not applicable

Implementation Date for the Decision

Following the expiry of the "call-in" period for the Minutes of the Cabinet Meeting

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Appendices:

Draft Sefton Council consultation response to Planning White Paper

Background Papers:

There are no background papers available for inspection.

1. Background

1.1 The Government has foreshadowed significant changes to the planning system in recent months with various changes to the Use Class Order and Permitted Development Rights and the Prime Minister's announcement to 'Build, Build, Build'. The changes are intended to significantly increase the number of new homes built, a move to 'beauty' in development and streamlining and modernising the planning process. These changes and announcements have now been expanded and formalised within proposals set out in the Planning White Paper 'Planning for the Future'. The Planning Paper sets out the most radical changes to the Planning System since it was introduced in the immediate period after the Second World War.

2. Proposals within the Planning White Paper

2.1 The Planning White 'Planning for the Future' was published on 6 August 2020 with huge publicity and media interest. It has been heralded by many as the most radical reform of the planning system in England since the establishment of the current system. Probably the key driver of the proposed reforms is the need to deliver, as a nation, 300,000 new homes per year.

2.2 The proposals are set out under a number of 'pillars' with each having a number of specific proposals. The pillars for change are:

- Planning for development
- Planning for beautiful and sustainable places
- Planning for Infrastructure and connected places

2.3 The remainder of this report will set out each of the 24 detailed proposals as set out in the White Paper with an explanation of each. An initial response to the proposals is provided at Annex A.

Proposal 1: The role of land use plans should be simplified. We propose that Local Plans should identify three types of land – Growth areas suitable for substantial development, Renewal areas suitable for development, and areas that are Protected.

2.4 The term 'substantial' has not yet been defined but it is considered that growth areas will be new settlement and urban extension areas but also large urban regeneration areas. Sites annotated in the new Local Plan as growth areas would have automatic outline planning permissions (see proposal 5). Areas of flood risk and other land with important constraints, would be excluded unless the risk can be fully mitigated.

2.5 Renewal areas will cover existing built-up areas where smaller scale development is appropriate. It could include the 'gentle densification' and infill of residential areas, development in Town Centres and small sites within or on the edge of a village. There would be statutory presumption in favour of development being granted for the uses specified as being suitable in each area.

2.6 Protected Areas would include sites and areas which, as a result of their environmental and/or cultural characteristics, would justify more stringent development controls to ensure sustainability. This would include areas such as Green Belt, Conservation Areas, Local Wildlife Sites, areas of significant flood risk and important

areas of green space. At a smaller scale it can continue to include gardens in line with existing policy in the National Planning Policy Framework.

Proposal 2: Development management policies established at national scale and an altered role for Local Plans.

2.7 Development management policy contained in the plan would be restricted to clear and necessary site or area-specific requirements, including broad height limits, scale and/or density limits for land included in Growth areas and Renewal areas, established through the accompanying text. The National Planning Policy Framework would become the primary source of policies for development management; there would be no provision for the inclusion of generic development management policies which simply repeat national policy within Local Plans

Proposal 3: Local Plans should be subject to a single statutory "sustainable development" test, replacing the existing tests of soundness.

2.8 This would consider whether the plan contributes to achieving sustainable development in accordance with policy issued by the Secretary of State. Specifically:

- It is proposed to abolish the Sustainability Appraisal system and develop a simplified process for assessing the environmental impact of plans
- the Duty to Cooperate test would be removed
- a slimmed down assessment of deliverability for the plan would be incorporated into the "sustainable development" test
- Plans should be informed by appropriate infrastructure planning, and sites should not be included in the plan where there is no reasonable prospect of any infrastructure that may be needed coming forward within the plan period

Proposal 4: A standard method for establishing housing requirement figures which ensures enough land is released in the areas where affordability is worst, to stop land supply being a barrier to enough homes being built. The housing requirement would factor in land constraints and opportunities to more effectively use land, including through densification where appropriate, to ensure that the land is identified in the most appropriate areas and housing targets are met.

2.9 Local Plans will need to identify areas to meet a range of development needs – such as homes, businesses and community facilities – for a minimum period of 10 years.

2.10 It is proposed that the standard method would be a means of distributing the national housebuilding target of 300,000 new homes annually, and one million homes by the end of the Parliament, having regard to:
• the size of existing urban settlements (so that development is targeted at areas that can absorb the level of housing proposed);
• the relative affordability of places (so that the least affordable places where historic under-supply has been most chronic take a greater share of future development);
• the extent of land constraints in an area to ensure that the requirement figure takes into account the practical limitations that some areas might face, including the presence of designated areas of environmental and heritage value, the Green Belt and flood risk.

• the opportunities to better use existing brownfield land for housing, including through greater densification. The requirement figure will expect these opportunities to have been utilised fully before land constraints are taken into account;
• the need to make an allowance for land required for other (non-residential) development; and
• inclusion of an appropriate buffer to ensure enough land is provided to account for the drop off rate between permissions and completions as well as offering sufficient choice to the market.

2.11 The proposed method for calculating the housing requirement taking account of all the factors above has not yet been published. The current 'standard methodology' is subject to a proposed revision but this does not factor in all the points above. The government, however, is confident that the proposed approach would make sure enough land is identified for new housing and therefore proposes that a five year supply of housing land is no longer needed to be demonstrated, although the Housing Delivery Test would remain.

Proposal 5: Areas identified as Growth areas (suitable for substantial development) would automatically be granted outline planning permission for the principle of development, while automatic approvals would also be available for pre-established development types in other areas suitable for building.

2.12 In areas suitable for substantial development (Growth areas) an outline permission for the principle of development would be confirmed on adoption of the Local Plan. Further details would be agreed, and full permission achieved, through streamlined and faster consent routes which focus on securing good design and addressing site-specific technical issues.

2.13 Detailed planning permission could be secured in one of three ways:
• a reformed reserved matters process for agreeing the issues which remain outstanding;
• a Local Development Order prepared by the local planning authority for the development which could be prepared in parallel with the Local Plan and be linked to a master plan and design codes; or
• for exceptionally large sites a Development Consent Order under the Nationally Significant Infrastructure Projects regime

2.14 In areas suitable for development (Renewal areas), there would be a general presumption in favour of development established in legislation (achieved by strengthening the emphasis on taking a plan-led approach, with plans reflecting the general appropriateness of these areas for development). Consent for development would be granted in one of three ways:
• for pre-specified forms of development such as the redevelopment of certain building types, through a new permission route which gives an automatic consent if the scheme meets design and other prior approval requirements (as discussed further under the fast-track to beauty proposals set out under Pillar Two);
• for other types of development, a faster planning application process where a planning application for the development would be determined in the context of the Local Plan description, for what development the area or site is appropriate for, and with reference to the National Planning Policy Framework; or
• a Local or Neighbourhood Development Order.

2.15 In both the Growth and Renewal areas it would still be possible for a proposal which is different to the plan to come forward (if, for example, local circumstances had changed suddenly, or an unanticipated opportunity arose), but this would require a specific planning application. It is expected that this is the exception rather than the rule.

2.16 In areas where development is restricted (Protected areas) any development proposals would come forward as now through planning applications being made to the local authority (except where they are subject to permitted development rights or development orders) and judged against policies set out in the National Planning Policy Framework.

Proposal 6: Decision-making should be faster and more certain, with firm deadlines, and make greater use of digital technology

2.17 For all types of planning applications regardless of the category of land, the Government want to see a much more streamlined and digitally enabled end to end process which is proportionate to the scale and nature of the development proposed, to ensure decisions are made faster. The well-established time limits of eight or 13 weeks for determining an application from validation to decision should be a firm deadline – not an aspiration which can be got around through extensions of time as routinely happens now.

2.18 In order that this is achieved several proposals to standardise and digitise the processes are proposed. The Government believe there should be a clear incentive on the local planning authority to determine an application within the statutory time limits. This could involve the automatic refund of the planning fee for the application if they fail to determine it within the time limit. But they also want to explore whether some types of applications should be deemed to have been granted planning permission if there has not been a timely determination, to ensure targets are met and local authorities keep to the time limit in the majority of cases.

2.19 There will remain the ability for applicants to appeal against a decision by a local planning authority. However, by ensuring greater certainty about the principle of development in Local Plans, the Government expect to see fewer appeals being considered by the Planning Inspectorate. To promote proper consideration of applications by planning committees, where applications are refused, it is proposed that applicants will be entitled to an automatic rebate of their planning application fee if they are successful at appeal.

Proposal 7: Local Plans should be visual and map-based, standardised, based on the latest digital technology, and supported by a new template.

2.20 Interactive, map-based Local Plans will be built upon data standards and digital principles. To support local authorities in developing plans in this new format, the Government will publish a guide to the new Local Plan system and data standards and digital principles, including clearer expectations around the more limited evidence that will be expected to support “sustainable” Local Plans, accompanied by a “model” template for Local Plans and subsequent updates, well in advance of the legislation being brought into force.

Proposal 8: Local authorities and the Planning Inspectorate will be required through legislation to meet a statutory timetable for key stages of the process, and we will consider what sanctions there would be for those who fail to do so.

2.21 It is proposed that the Local Plan process covers five stages, with meaningful public engagement at two stages:

- Stage 1 [6 months]: The local planning authority "calls for" suggestions for areas under the three 'zoning' categories
- Stage 2 [12 months]: The local planning authority draws up its proposed Local Plan, and produces any necessary evidence to inform and justify the plan.
- Stage 3 [6 weeks]: The local planning authority simultaneously
  (i) submits the Plan to the Secretary of State for Examination; and
  (ii) publicises the plan for the public to comment on. Responses will have a word count limit.
- Stage 4 [9 months]: A planning inspector appointed by the Secretary of State considers whether the three categories shown in the proposed Local Plan are "sustainable" as per the statutory test and accompanying national guidance and makes binding changes which are necessary to satisfy the test.
- Stage 5 [6 weeks]: Local Plan map, key and text are finalised, and come into force.

2.22 To support the transition to the new system, the Government propose a statutory duty for local authorities to adopt a new Local Plan by a specified date – either 30 months from the legislation being brought into force, or 42 months for local planning authorities who have adopted a Local Plan within the previous three years. This should be accompanied by a requirement for each planning authority to review its Local Plan at least every five years. Reviews should be undertaken sooner than five years where there has been a significant change in circumstances. Local planning authorities that fail to do what is required to get their plan in place, or keep it up to date, would be at risk of government intervention.

2.23 Alternative options for Local Plan production is the removal of examination stage altogether and requiring Local Authorities to undertake a self-assessment against a set of set criteria and guidance.

Proposal 9: Neighbourhood Plans should be retained as an important means of community input, and we will support communities to make better use of digital tools

2.24 Neighbourhood Plans should be retained in the reformed planning system, but the Government want to consider whether their content should become more focused to reflect proposals for Local Plans, as well as the opportunities which digital tools and data offer to support their development and improve accessibility for users.

Proposal 10: A stronger emphasis on build out through planning

2.25 The Government propose to make it clear in the revised National Planning Policy Framework that the masterplans and design codes for sites prepared for substantial development should seek to include a variety of development types by different builders which allow more phases to come forward together. They will explore further options to support faster build out as we develop our proposals for the new planning system.

Proposal 11: To make design expectations more visual and predictable, we will expect design guidance and codes to be prepared locally with community involvement, and ensure that codes are more binding on decisions about development.

2.26 As national guidance, the Government will expect the National Design Guide, National Model Design Code and the revised Manual for Streets to have a direct bearing on the design of new communities. But to ensure that schemes reflect the diverse character of our country, as well as what is provably popular locally, it is important that local guides and codes are prepared wherever possible. These play the vital role of translating the basic characteristics of good places into what works locally, and can already be brought forward in a number of ways:

- by local planning authorities to supplement and add a visual dimension to their Local Plans;
- through the work of neighbourhood planning groups;
- or by applicants in bringing forward proposals for significant new areas of development.

2.27 It is proposed that these different routes for bringing forward design guides and codes should remain, although in all cases it will be essential that they are prepared with effective inputs from the local community, considering empirical evidence of what is popular and characteristic in the local area. To underpin the importance of this, the Government intend to make clear that designs and codes should only be given weight in the planning process if they can demonstrate that this input has been secured. And, where this is the case, it will also be made clear that decisions on design should be made in line with these documents. Where locally-produced guides and codes are not in place, the Government also propose to make clear in policy that the National Design Guide, National Model Design Code and Manual for Streets should guide decisions on the form of development.

Proposal 12: To support the transition to a planning system which is more visual and rooted in local preferences and character, we will set up a body to support the delivery of provably locally-popular design codes, and propose that each authority should have a chief officer for design and place-making.

2.28 The Government will explore the options for establishing a new expert body which can help authorities make effective use of design guidance and codes, as well as performing a wider monitoring and challenge role for the sector in building better places. They will also bring forward proposals later this year for improving the resourcing of planning departments more broadly; and their suggestions in this paper for streamlining plan-making will allow some re-focusing of professional skills. However, effective leadership within authorities will also be crucial. To drive a strong vision for what each place aspires to, and ensure this is integrated across council functions, the Government believe that each authority should appoint a chief officer for design and place-making, as recommended by the Building Better, Building Beautiful Commission.

Proposal 13: To further embed national leadership on delivering better places, we will consider how Homes England's strategic objectives can give greater emphasis to delivering beautiful places.

2.29 This proposal doesn't have specific implications for Local Authorities except that Homes England would be expected to prioritise schemes (and hence funding opportunities) to schemes that promote 'beauty'.

Proposal 14: We intend to introduce a fast-track for beauty through changes to national policy and legislation, to incentivise and accelerate high quality development which reflects local character and preferences.

2.30 In the first instance, through updating the National Planning Policy Framework, the Government will make clear that schemes which comply with local design guides and codes have a positive advantage and greater certainty about their prospects of swift approval.

2.31 Second, where plans identify areas for significant development (Growth areas), it will be legislated to require that a masterplan and site-specific code are agreed as a condition of the permission in principle which is granted through the plan. This should be in place prior to detailed proposals coming forward, to direct and expedite those detailed matters. These masterplans and codes could be prepared by the local planning authority alongside or subsequent to preparing its plan, at a level of detail commensurate with the size of site and key principles to be established.

2.32 Third, it also proposed to legislate to widen and change the nature of permitted development, so that it enables popular and replicable forms of development to be approved easily and quickly, helping to support ‘gentle intensification’ of our towns and cities, but in accordance with important design principles. This could be through the use of ‘pattern books’ setting out what would be acceptable in areas identified for Renewal.

Proposal 15: We intend to amend the National Planning Policy Framework to ensure that it targets those areas where a reformed planning system can most effectively play a role in mitigating and adapting to climate change and maximising environmental benefits.

2.33 The Government want to provide important opportunities to strengthen the way that environmental issues are considered through the planning system. They also want the reforms to be clear about the role that local, spatially-specific policies can continue to play, such as in identifying important views, opportunities to improve public access or places where renewable energy or woodland and forestry creation could be accommodated.

Proposal 16: We intend to design a quicker, simpler framework for assessing environmental impacts and enhancement opportunities, that speeds up the process while protecting and enhancing the most valuable and important habitats and species in England.

2.34 The current frameworks assessing environmental impacts – which include Strategic Environmental Assessment, Sustainability Appraisal, and Environmental Impact Assessment – can lead to duplication of effort and overly-long reports which inhibit transparency and add unnecessary delays.

2.35 The government see this is an area that needs reforming to simplify the process, make information more accessible and easier to understand and avoid duplication. This will be the subject of a separate and more detailed consultation in the autumn.

Proposal 17: Conserving and enhancing our historic buildings and areas in the 21st century.

2.36 The government will review and update the planning framework for listed buildings and conservation areas, to ensure their significance is conserved while allowing, where appropriate, sympathetic changes to support their continued use and address climate change. In doing so, they want to explore whether there are new and better ways of securing consent for routine works, to enable local planning authorities to concentrate on conserving and enhancing the most important historic buildings. This includes exploring whether suitably experienced architectural specialists can have earned autonomy from routine listed building consents.

Proposal 18: To complement our planning reforms, we will facilitate ambitious improvements in the energy efficiency standards for buildings to help deliver our world-leading commitment to net-zero by 2050.

2.37 The Planning White Paper acknowledges planning system is only one of the tools that we need to use to mitigate and adapt to climate change. Last year the government consulted on proposals to move towards a Future Homes Standard, which was a first step towards net zero homes. From 2025, they expect new homes to produce 75-80 per cent lower CO2 emissions compared to current levels. These homes will be ‘zero carbon ready’, with the ability to become fully zero carbon homes over time as the electricity grid decarbonises, without the need for further costly retrofitting work.

Proposal 19: The Community Infrastructure Levy should be reformed to be charged as a fixed proportion of the development value above a threshold, with a mandatory nationally-set rate or rates and the current system of planning obligations abolished.

2.38 The government believe that the current system of planning obligations under Section 106 should be consolidated under a reformed, extended ‘Infrastructure Levy’. This would be based upon a flat-rate, valued-based charge, set nationally, at either a single rate, or at area-specific rates. This would address issues in the current system as it would:

- be charged on the final value of a development;
- be levied at point of occupation, with prevention of occupation being a potential sanction for non-payment;
- include a value-based minimum threshold below which the levy is not charged, to prevent low viability development becoming unviable;
- provide greater certainty for communities and developers about what the level of developer contributions are expected alongside new development.

2.39 To better support the timely delivery of infrastructure, the government would also allow local authorities to borrow against Infrastructure Levy revenues so that they could forward fund infrastructure. Enabling borrowing combined with a shift to levying developer contributions on completion, would incentivise local authorities to deliver enabling infrastructure, in turn helping to ensure development can be completed faster.

2.40 Another option the government are asking for views on is for the Infrastructure Levy to be optional and for each local authority to set their own. However, as planning obligations would be consolidated into the single Infrastructure Levy, the government anticipate that there would be a significantly greater uptake than with CIL.

2.41 Alternatively, the national rate approach could be taken, but with the aim of capturing more land value than currently, to better support the delivery of infrastructure. While developers would be liable for paying the levy, the cost of this would be capitalised

into land value. This would ensure that the landowners who benefit from increases in value as a result of the grant of planning permission contribute to the infrastructure and affordable housing that makes development acceptable.

Proposal 20: The scope of the Infrastructure Levy could be extended to capture changes of use through permitted development rights

2.42 In making this change to developer contributions for new development, the scope of the Infrastructure Levy would be extended to better capture changes of use which require planning permission, even where there is no additional floorspace, and for some permitted development rights including office to residential conversions and new demolition and rebuild permitted development rights. This approach would increase the levy base and would allow these developments to better contribute to infrastructure delivery and making development acceptable to the community. However, it is proposed to maintain the exemption of self and custom build development from the Infrastructure Levy.

Proposal 21: The reformed Infrastructure Levy should deliver affordable housing provision

2.43 Developer contributions currently deliver around half of all affordable housing, most of which is delivered on-site. It is important that the reformed approach will continue to deliver on-site affordable housing at least at present levels.

2.44 Affordable housing provision is currently secured by local authorities via Section 106, but the Community Infrastructure Levy cannot be spent on it. With Section 106 planning obligations removed, it is proposed that under the Infrastructure Levy, authorities would be able to use funds raised through the levy to secure affordable housing.

2.45 This could be secured through in-kind delivery on-site, which could be made mandatory where an authority has a requirement, capability and wishes to do so. Local authorities would have a means to specify the forms and tenures of the on-site provision, working with a nominated affordable housing provider. Under this approach, a provider of affordable housing could purchase the dwelling at a discount from market rate, as now. However, rather than the discount being secured through Section 106 planning obligations, it would instead be considered as in-kind delivery of the Infrastructure Levy. In effect, the difference between the price at which the unit was sold to the provider and the market price would be offset from the final cash liability to the Levy. This would create an incentive for the developer to build on-site affordable housing where appropriate. First Homes, which are sold by the developer direct to the customer at a discount to market price, would offset the discount against the cash liability.

2.46 Local authorities could also accept Infrastructure Levy payments in the form of land within or adjacent to a site. Through borrowing against further Infrastructure Levy receipts, other sources of funding, or in partnership with affordable housing providers, they could then build affordable homes, enabling delivery at pace.

2.47 Another option in the Planning White Paper is to create a ‘first refusal’ right for local authorities or any affordable housing provider acting on their behalf to buy up to a set proportion of on-site units (on a square metre basis) at a discounted price, broadly equivalent to build costs. The proportion would be set nationally, and the developer

would have discretion over which units were sold in this way. A threshold would be set for smaller sites, below which on-site delivery was not required, and cash payment could be made in lieu. Where on-site units were purchased, these could be used for affordable housing, or sold on (or back to the developer) to raise money to purchase affordable housing elsewhere. The local authority could use Infrastructure Levy funds, or other funds, in order to purchase units.

Proposal 22: More freedom could be given to local authorities over how they spend the Infrastructure Levy

2.48 It is important that there is a strong link between where development occurs and where funding is spent. Currently, the Neighbourhood Share of the Community Infrastructure Levy ensures that up to 25 per cent of the levy is spent on priorities in the area that development occurred, with funding transferred to parish councils in parished areas. There are fewer restrictions on how this funding is spent, and the government believes it provides an important incentive to local communities to allow development in their area. It is therefore proposed that the Neighbourhood Share would be kept, and the government would be interested in ways to enhance community engagement around how these funds are used, with scope for digital innovation to promote engagement.

2.49 The government are also seeking views about allowing Council's to spend the Infrastructure Levy more flexibly, including on other policy priorities or lowering Council Tax, if all the infrastructure has been provided – with the caveat that levy secured for affordable housing is protected.

Proposal 23: As we develop our final proposals for this new planning system, we will develop a comprehensive resources and skills strategy for the planning sector to support the implementation of our reforms.

2.50 The cost of operating the new planning system should be principally funded by the beneficiaries of planning gain – landowners and developers – rather than the national or local taxpayer. Currently, the cost of development management activities by local planning authorities is to a large extent covered by planning fees, although the current fee structure means the cost of processing some applications can be significantly greater than their individual fee. However, the cost of preparing Local Plans and enforcement activities is now largely funded from the local planning authority's own resources.

2.51 If a new approach to development contributions is implemented, a small proportion of the income should be earmarked to local planning authorities to cover their overall planning costs, including the preparation and review of Local Plans and design codes and enforcement activities. Some local planning activities should still be funded through general taxation given the public benefits from good planning, and time limited funding will be made available by the Government in line with the new burdens principle to support local planning authorities to transition to the new planning system as part of the next Spending Review.

2.52 Local planning authorities should be subject to a new performance framework which ensures continuous improvement across all planning functions from Local Plans to decision-making and enforcement – and enables early intervention if problems emerge with individual authorities.

Proposal 24: We will seek to strengthen enforcement powers and sanctions

2.53 The government will review and strengthen the existing planning enforcement powers and sanctions available to local planning authorities to ensure they support the new planning system. They intend to introduce more powers to address intentional unauthorised development, consider higher fines, and look to ways of supporting more enforcement activity.

3. Next Stages

3.1 Comments are sought on the Planning White Paper by 29 October 2020. Views have been sought from relevant departments in the Council, including Housing, Regeneration, Conservation, Highways, Flooding and Drainage, Green Sefton, Legal Services and Property Services. Comments put forward from both officers and members will inform a comprehensive Council response to be submitted by the deadline. An initial Council response setting out early observations is provided at Annex A. Members are asked to provide feedback on this draft response advise on whether changes or additions should be made. The final response will be agreed by the Cabinet Member for Planning and Building Control prior to submission.

Annex A - Draft Council response to Planning White Paper

MHCLG

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Date:
Our Ref: [reference]

Dear Sir or Madam

Re: Planning White Paper Consultation Response

The Planning White Paper contains a significant number of proposals and would, if brought forward, result in a complete change in the planning system. Some of the proposed changes will have obvious and clear impacts, whilst others will only become apparent once the system is enacted. In many cases the proposals put forward are without detail how they will work in practice. Rather than answer each of the questions separately in the Planning White Paper consultation document, many of which are designed to establish the views from a wide range of stakeholders and public, this response is setting out the views of Sefton Council across a number of the key themes from the Planning White Paper.

The rationale behind the proposed reforms is that the planning system is outdated and cumbersome and does not deliver the development, notably the number of homes, the country needs. However, this viewpoint fails to recognise the effort and results that many Local Planning Authorities have had in supporting growth and regeneration in their areas. Sefton Council have worked incredibly hard with a range of stakeholders and residents to adopt a Local Plan which is now starting to deliver the homes we need. Sefton also perform extremely well in the determination of major and minor planning applications within statutory timescales, has an excellent appeals performance, and performs well in relation to speed and quality targets. This collective effort has enabled Sefton Planning Service to consistently score highly for customer service and outcomes through surveys of our customers and agents. This is despite significant cuts to Local Authority funding in recent years.

Whilst it is acknowledged that not all Local Planning Authorities are providing for the homes its residents need, this Planning White Paper does appear to be advocating change for change sake. It is the view of Sefton Council that this is not necessary to meet the homes, jobs and other development that people need. The emphasis in the Planning White Paper seems to be heavily weighted to the perceived shortcomings of the planning system and Local Planning Authorities, without acknowledging or seeking to address the responsibilities that landowners, housebuilders, financial institutions and others have. Sefton Council believe the Planning White Paper should take a more holistic approach to dealing with under delivery of homes and not just seek to reform the role of the planning authority.

Statutory requirement to produce new style Local Plan in 2.5 years

It is true that production of a Local Plan has become an industry and proposals to regulate the time taken to prepare a Local Plan is welcomed. The timescale of 2.5 years from start (which will

be set when the White Paper becomes a Planning Act) to finish would seem to be reasonable if challenging. Of course, this will depend on the level of organised opposition proposals attract and the amount of evidence that is considered necessary to support the Local Plan. It is suggested that the authorities that fail to produce a new Local Plan in the statutory timescales would be subject to sanctions, although it is not clear what these would be. Whilst it is acknowledged that setting statutory timescales would only have weight if there are sanctions, it is suggested that in addition to these there is a financial reward for meeting the timescales, similar to the housing delivery grant.

Furthermore, if it is assumed that 70-90% of Local Planning Authorities will have to commence a new Local Plan when the new Act comes into force, and each of these have to submit a plan to the Secretary of State for Examination after 18 months, it is difficult to see how the Planning Inspectorate will have the resources to manage this. It may be preferable to introduce a staggered process for undertaking the new Local Plans, with the trigger either linked to the age of the existing Local Plan or performance in the Housing Delivery Test. For example, those authorities with a Local Plan older than 10 years could be required to start immediately the Act comes into force; those with a Local Plan 5-10 years old within 12 months; and those with a plan less than 5 years to start the process within 2 years. Alternatively, those authorities who have delivered less than 60% of the homes required in the Housing Delivery Test could be required to start the Local Plan process immediately the Act comes into force; those who have delivered 60-100% of the required homes within 12 months; and those who have passed the Housing Delivery Test have to start the process within 2 years.

It is also noted that a Local Plan may be published to cover a 10-year period, rather than the 15-year plan that the current Local Plan requires. As the Local Plan must be reviewed every 5-years it is agreed this may be a means of keeping the Local Plan relevant and able to react more quickly to changes in circumstances (e.g. if the housing requirement changes).

Limit of 3 ‘zones’ in Local Plan in which to place all land

It is possible that limiting the number of zones which a Local Plan must place all land within an authority area could appear restrictive and problematic. It could result in areas that have very different characters being categorised the same and restrict the ability to apply different standards for new development. However, on closer reading it appears that within each zone there will be the ability to set out clear guidelines for what would be considered acceptable. For example, in the ‘renewal’ areas, which will essentially include most of the existing built up areas of Sefton, areas can be identified as Town Centres, Employment, Residential etc, much as with the current Local Plan. There also doesn’t appear to anything to suggest that these areas couldn’t be further sub-divided, for example different residential character areas, which could have their own guidelines for what type of infill development may be acceptable. If this is the case, then the three zones proposal doesn’t change that much in principle from the land designations that are in the current Local Plan. It would be useful if this could be clarified in future guidance on Local Planning. The Council consider the term ‘renewal’ is somewhat of a misnomer as it is likely to be applied to land that has not been previously developed, but may be too small for the ‘growth’ category. The Council would also want clarification that it is able to protect urban open spaces as part of the protected ‘zone’ in the same manner as Green Belt. The Council consider open spaces in our towns of critical importance to the well-being of our communities and would wish to have the ability to protect these from development.

Granting of outline permission for Local Plan ‘growth areas’

A key difference between the proposed zoning and the current process is land identified for ‘growth’ will be automatically granted outline planning permission. This effectively removes a stage from the planning process. Whilst many developers will go straight to a full application, many landowners will often apply for an outline permission before selling the land to a developer who will secure details later. The change is intended to give greater certainty to landowners and

enable them to secure a developer, and therefore new homes, sooner. However, this will effectively result in the loss of significant income to the Local Planning Authority. For context, the Council is in receipt of an outline planning application for up to 855 homes in the borough at a cost to the applicant of £46,000. This income is essential to the Local Planning Authority to assess the proposals. If the Council is expected to still undertake this assessment, but through the Local Plan, this will be a significant loss of resource.

In effect, when the Council is undertaking a 'call for sites' to inform the Local Plan, and the landowner puts their site forward for an area for growth, they are effectively applying for outline planning permission. It would appear reasonable that such submissions attract a fee, similar to the outline application fee, regardless of whether the site is ultimately identified as an area of growth in the Local Plan. This will not only help resource the planning service to assess the sites, but also may prevent landowners submitting unsuitable sites. It would be expected that such submissions be subject to similar information requirements as would an outline application, including viability, delivery and availability evidence.

It is not clear what the granting of outline permission would add to the development process, apart from wresting resources and influence from the local planning authority and residents. There is another system available to developers, that of the Permission in Principle. The Government are currently exploring whether this could be applied to major schemes. It may be a better approach that land identified for growth is granted Permission in Principle rather than outline planning permission. This is a softer option but will still give the landowner and developer certainty that, subject the layout, design and other key details, the principle of developing the land is acceptable. An outline or full application will then still be required as is currently the case.

Permission in principle and pre approval in 'renewal' areas

In renewal areas there would be a statutory presumption in favour of development being granted for the uses specified as being suitable in each area. In effect this is no different from the current system where there is a presumption in favour of sustainable development that accords with an up-to-date Local Plan. However, the Planning White Paper is proposing a new process to grant automatic permission if proposals accord with design and prior approval parameters set out for that area in the Local Plan. This would appear to be a large expansion of the permitted development rights that the government has recently been implementing. In this case, however, it will be in the gift of the Council, following public engagement, to clearly set out what proposals it would deem 'pre-approved'.

It is considered that allowing a set list of proposals to be 'pre-approved' may free up staff resources to concentrate on more detailed and complex proposals. However, there will still be a role for planning officers to confirm that a proposal accords with the Local Plan, and therefore there needs to be a fee structure that remunerates the Council for this service. The Council would wish to see details of how this would work in practice.

Notwithstanding the above, the Council would not wish to see a reduction of skillset within the planning profession or to see a movement to a perfunctory approach to planning which bypasses negotiation processes that improve development proposals. Ongoing and detailed negotiation should not be viewed as a problem but rather a process between skilled professionals that leads to better design and outcomes. There is a danger that a move to automatic processes, which in themselves have merit, should not be at the cost of good planning. The Council would also wish assurances that processes are not being implemented with the primary purpose of reducing costs, including staff levels, rather than for sound planning purposes. Furthermore, if the frameworks are too rigid we could end up spending more time and resources amending frameworks to deliver suitable schemes.

Emphasis on digital engagement in planning

Sefton Planning Services have already invested heavily in digital systems and a move to a more digital approach, both in plan and decision making, is welcomed. With the ONS reporting[1] that 96% of households have access to the internet this will be the fastest and cheapest way to engage with residents. The traditional approach of printed material available at limited locations is time consuming, expensive and fails to engage with wide sectors of the population. Nevertheless, there will be households who can't access online materials due to cost, lack of skills or poor internet connectivity. Therefore, it is important that the government continues to invest in rolling out high speed broadband and supports households who have limited or no internet access. It is also important that the government funds the necessary skills within Planning Services to allow the continued digital evolution to continue. This may come through innovative ways of funding planning services, for example charging for sites submissions to the Local Plan (see above) through the Infrastructure Levy (see below) or direct funding.

Greater emphasis on 'place-making' in Local Plans

This element of the Planning White Paper is possibly the most interesting and would completely change the emphasis of policy planning. The primary goal would be to set out clearly the type of place that new development and growth is intended to create. This would be done by the new style Local Plan containing a series of masterplans, design codes and pattern books that will clearly set out what type of community is intended to be created. It is clear from the Planning White Paper that this should be done in close collaboration with residents and the development industry. This is somewhat different from the current Local Plan system which sets out policies that are then interpreted by developers and planning case officers.

Whilst these proposals are interesting and could well engage residents in a far more effective way, it is considered that the government must put resources into Local Planning Authorities to expand the skill base in staff in order to deliver this place making agenda. This can be done through upskilling those officers already in post or through bringing in new staff. Either way this will require a financial commitment. There are avenues that are discussed elsewhere in this response about possible income streams, such as through the Infrastructure Levy and charging landowners a fee to submit their site for consideration in the Local Plan. However, the Planning White Paper also considers financial sanctions for LPAs that fail to have a Local Plan in place, failure to determine applications in a statutory timescale or if decisions are overturned at appeal. It is Sefton Council's view that the government should provide more financial support to LPAs to allow them to change focus, innovate and support growth rather than an emphasis on sanctions. In this respect the government are giving mixed messages about the importance and role of planning policy teams in the process.

Duty to cooperate issues

It is noted that the Duty to Corporate is proposed to be removed. The Council do not have any strong objections to this and considers that this was a largely a process that provided few tangible benefits. Whilst we consider that collaboration between neighbouring authorities and other stakeholders is essential to the plan making process, Sefton consider this can be done through a reformed Sustainability Test.

The key issue with cross boundary and sub-regional planning is that Sefton strongly believe in decisions remaining at local authority level and would strongly oppose any decisions being delegated to the city region level. Sefton believe that decisions that impact locally should be made at the local level and that the spirit of place making would not work if decision were being seen to be made a sub-regional level that didn't have the same public scrutiny of local democratic process.

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1 https://www.ons.gov.uk/peoplepopulationandcommunity/householdcharacteristics/homeinternetandsocialmediausage/bulletins/internetaccesshouseholdsandindividuals/2020

Emphasis on building out developments

There is a section on this but is very brief and lacks detail. The Council seeks assurances that the emphasis is also placed on developers building out permissions that they have received and that options are considered for ensuring this. Also, and possibly more importantly, landowners who have had sites allocated for development in Local Plans, must be encouraged and required to release that land for development. For example, developers could forfeit planning approval, even if technically implemented, if development is not completed within certain timescales. Alternatively, if a permission is secured, for example for new homes, the applicant may be required to pay a proportion of the Council Tax for those properties if they are not built after a certain period, unless they voluntarily request revocation of permission. A landowner who promotes a site for growth or renewal in the Local Plan, but then does not bring that site forward, must have sanctions placed on them. This could be through strengthening the use of Compulsory Purchase Orders that give Local Authorities the ability to purchase land at a discount that is identified for development, if it can be shown that the delay is compromising the ability of the authority to meet its vision. Essentially, the Planning White Paper should not put the burden of delivery solely on local authorities, when this is primarily in the control of the development industry and landowners.

Reform of developer contributions

The Planning White Paper seeks to address common criticisms of the current system, such as time spent negotiating agreements, the complex and opaque nature of viability discussions and inefficiency in capturing land value uplift. The new infrastructure levy would be charged ‘as a fixed proportion of the development value above a threshold, with a mandatory nationally-set rate or rates’, levied at the point of occupation, with an offset for any affordable housing provided on-site. Importantly, it would be extended to apply to changes of use, not just the creation of new floor space.

Whilst the principle of a set ‘tax’ to be applied across the country is welcomed, there are likely to be issues of implementing a process across such a wide variety of markets. It is likely that in lower value areas, such as we have in South Sefton, there may be little, or no levy secured. However, that is no different to the current systems of either Community Infrastructure Levy (CIL) or section 106 planning obligations. We know that, in general terms, greenfield sites are often able to return higher returns, due to lower development costs. Therefore, it may be legitimate that when the detailed guidance looks to set the ‘development value’ thresholds (below which no levy is charged) then the zone is taken account of, i.e. areas of ‘growth’ are likely to secure a greater levy than an area of ‘renewal’. Also, there are certain types of infrastructure that are essential and should not be subject to viability – for instance highway improvements – and it should not be the case that development is allowed if essential infrastructure can’t be provided because a scheme is not deemed to meet the development value threshold (see section on removal of Section 106 agreements below).

It is welcomed that the new levy would allow greater flexibility on how it is spent. In areas that have huge disparities in land value, the Council would need the ability to spend levy secured in one area in another, depending on where the improved infrastructure is required. Whilst the principle of spending a proportion of the levy (25%) in accordance with local priorities is valid, the Council would expect this to be done in accordance with clearly expressed and approved strategies that have public agreement.

Overall, it is suggested the principle of an automatic levy that applies nationally (albeit with local variations) without the need to go through a separate examination process, is strongly supported. Currently, when a Local Planning Authority proposes and publishes a draft Community Infrastructure Levy, it attracts huge objections from developers who have a vested interested in

seeking to decrease and delay the levy. As proposed, the levy would be automatic and broadly subject to set calculations.

Delivery of Affordable Housing

The Planning White Paper seems to acknowledge the importance of maintaining affordable housing delivery, and its commitment that the new levy delivers 'at least as much, if not more on-site affordable housing as at present'. The use of the reformed levy to deliver affordable housing may provide the Council with more options, for example the receipt of land as payment in kind or more affordable housing over financial contributions. However, the Council would want certainty that these choices would rest with them and not to be decided by the developer. There also needs to be greater detail on the role of Registered (Social Housing) Providers in the process and how affordable housing can be managed in perpetuity in the absence of a section 106 agreement (see below).

Removal of the Section 106 process

In their current form, Section 106 Planning Obligations are used for three purposes:

- They prescribe the nature of development (for example, requiring a given portion of housing is affordable)
- They compensate for loss or damage created by a development (for example, loss of open space)
- They mitigate a development's impact (for example, through increased public transport provision).

The new proposals do partly replicate the financial provisions, and securing of affordable housing (see above), however these are not the only uses for a section 106 agreement to mitigate the impacts of a development proposal. A section 106 agreement can also:

- restrict the development or use of the land in any specified way
- require specified operations or activities to be carried out in, on, under or over the land; and/or
- require the land to be used in any specified way.

For example, section 106 agreements will set out very specifically how affordable housing tenures will be managed, who are eligible for them, what rent structure should be used, limitations on sale etc. Section 106 agreements will also be used to ensure that suitable management regimes are put in place for new onsite open space, landscaping and sustainable drainage systems. It is unclear from the proposals how these issues will be secured. It is therefore suggested that some element of legal agreement is retained, even if this requires a local authority to set out in the Local Plan the provisions that they should cover or publish a template agreement online. This way the signing of an agreement should not delay an approval.

Change in methodology to identify housing requirement

In order to help deliver the 300,000 homes that the country is purported to need, the government have recently reviewed its approach to a standard method at setting an authority's housing requirement. An authority's annual housing requirement will be based on the higher of:

- the average annual increase in the numbers of households over the next ten years, and
- a proportion (0.5%) of the existing housing stock

This will be then be adjusted for affordability issues, with an increase in proportion to how affordable the homes are in the borough. The Planning White Paper also sets out that the housing requirement, for the first time, will consider the environmental constraints that exist in a borough. Previously, the constraints only came in to consideration when a Local Authority were

looking to identify land to meet its requirement. The environmental constraints that will be considered include Green Belt. The Planning White Paper does not set out the mechanism for calculating a reduction to the housing requirement due to environmental constraints, but we suggest this should be linked to the area of land and/or percentage of land in a borough that is subject to that constraint.

The Planning White Paper does propose that the housing requirement figure will expect brownfield land opportunities to have been utilised fully before environmental constraints are considered. However, there must be some consideration of the costs of bringing some brownfield, heavily contaminated land back into use. The Council have prioritised the need to reuse brownfield land and have always looked at funding streams to unlock the potential of heavily contaminated land. However, if the lack of funding and high costs have prevented the redevelopment of brownfield land in the borough, this should not result in an inflated housing requirement which will inevitably have to be met through the release of Green Belt land. There must be a mechanism that considers these difficulties, particularly in low value areas.

Conclusions

The proposals in the Planning White Paper seem to come from the premise that the failure to deliver homes and other development is primarily due to the failure of the planning system. Sefton Council do not accept this and believe that the current system can meet needs whilst protecting the environment, if the motivation is there to do so. Whilst the proposals put forward do have some merit, such as the emphasis on place-making and reforms of developer contributions, it primarily fails to deal with what the Council considers to be the main obstacles to growth, notably a lack of funding to Local Authorities, lack of requirement for landowners to bring allocated sites forward for development, lack of investment to bring forward brownfield sites and need to invest in infrastructure. Whilst the proposed approach to developer contributions may secure this investment in the higher value parts of the country, it is unlikely to do so in many parts of the north and midlands. The failure to address these concerns will undermine the government's 'levelling up' agenda and severely restrict the ability of these authorities to deliver the levels of growth necessary.

Yours sincerely

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Sefton Council