

Cabinet

7 October 2020

Report title	Wolverhampton Response to Government Planning Consultations	
Decision Designation	AMBER	
Cabinet member with lead responsibility	Councillor Stephen Simkins City Economy	
Key decision	Yes	
In forward plan	Yes	
Wards affected	All Wards	
Accountable director	Richard Lawrence, Director of Regeneration	
Originating service	Planning	
Accountable employee(s)	Michele Ross	Lead Planning Manager Sub-Regional Strategy
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Report to be/has been considered by	Strategic Executive Board	16 September 2020
	Scrutiny Board	29 September 2020

Recommendation for action:

The Cabinet is recommended to:

1. Approve the proposed principles for a City of Wolverhampton Council response to the current Government Planning consultations set out in paragraphs 3.6, 3.8, 4.8, 4.12, 4.15, 4.19 and 4.21 of this report.

1.0 Purpose

- 1.1 To summarise two consultations on planning reform issued by the Government and their potential implications for Wolverhampton and to seek approval for the proposed principles for a City of Wolverhampton Council response to the consultations.

2.0 Background

- 2.1 In October 2019 the Government issued a consultation on the standard method for assessing local housing need, pending a review of the standard methodology in 2020. This review has now taken place and a further consultation on the standard method was issued in August, alongside proposed changes to affordable housing and permission in principle, with an end date of 1 October 2020. In addition, a White Paper – Planning for the Future, setting out ideas for a wholesale and potentially radical reform of the planning system, was issued in August for consultation with an end date of 29 October 2020.

3.0 Consultation - Changes to the Current Planning System

- 3.1 This consultation sets out proposals for short term measures to improve the effectiveness of the current planning system through:
- changes to the standard method for assessing housing need;
 - removing affordable housing requirements for developments of less than 40 or 50 homes to support medium-sized builders through the covid-19 crisis, for 18 months in the first instance;
 - requiring that at least 25% of affordable housing secured through developer contributions should be “First Homes” tenure, sold to local first-time buyers with a minimum discount of 30% from market price;
 - extending the current Permission in Principle route to major developments.

Standard Method Changes

- 3.2 The existing standard method uses 2014-based household projections with an uplift applied to reflect affordability in the most recent year and a cap at 40% above the current Plan target. The proposed changes to the standard method would ensure that the existing housing stock in each area increases by at least 0.5% each year and apply an additional uplift if affordability has worsened over the past 10 years (which it has in many areas, including Wolverhampton). These changes, combined with use of the new 2018-based household projections and removal of the cap, would result in an increase in housing need across the country from 270,000 to 337,000 homes per year. The proposed changes would significantly increase housing need for many local authorities, particularly rural and London authorities.
- 3.3 The Black Country local authorities are preparing a joint planning strategy – the Black Country Plan which will be required to show how, when and where housing needs will be provided for over the period to 2039. Given the nature of land availability and strong housing market linkages between the four authorities, needs arising in one local authority area do not have to be met within that area and can be provided for either within other parts of the Black Country, or by ‘exporting’ to surrounding districts. Under the proposed changes, Wolverhampton’s housing requirement would increase from 750 to 844 homes

per year. Over the Black Country Plan period (2020-39) this would represent an increase of 1,786 homes. The Black Country Urban Capacity Review Update (2019) estimates that in Wolverhampton there is already a 3,731 home gap between housing need and housing land supply in the urban area. The proposed changes would increase this gap to 5,517 homes (34% above the supply of 10,557 homes), putting increased pressure through the Black Country Plan review to release more green belt land for housing.

- 3.4 The overall Black Country housing requirement would decrease very slightly – from 3,736 homes per year under the existing method to 3,689 homes per year under the new method. However, the requirement would be more evenly distributed across the four authorities, with Dudley's need increasing by 38%, Sandwell's need decreasing by 23%, and Walsall's requirement decreasing slightly. Birmingham's housing need would decrease by 15% however Birmingham would still be likely to generate a shortfall as part of any future Local Plan review. There would be significant increases in neighbouring authorities, such as South Staffordshire, Cannock, Shropshire and Lichfield. This increased requirement would, in many instances, exceed the level of housing that these authorities are currently planning to accommodate to meet needs arising in the Black Country. This may result in those authorities reconsidering their approach to meeting our housing needs, particularly in the light of the potential abolition of the Duty to Cooperate as proposed in the Planning White Paper.
- 3.5 The Government plans to adopt the new standard method following consultation, presumably by early 2021. This would provide clarity on the housing need figure to be used for the Draft Black Country Plan in 2021. However, the figures generated by the method are extremely high for some authorities, for example Shropshire's need would double, and so there is likely to be considerable resistance across the country. The Planning for the Future consultation (see section 4) also proposes longer term changes to the method which could significantly re-distribute the figures.
- 3.6 Therefore the following principles are proposed for a City of Wolverhampton Council (CoWC) response:
- Support for use of most recent household projections (currently 2018-based);
 - Concern that other proposed changes to the method would increase the national target to a potentially unsustainable level, with particularly severe impacts on authorities, such as Wolverhampton, which may not reflect local environmental and delivery constraints;
 - Emphasis on the key importance of stability and certainty in the development of the new method to expedite Local Plan preparation.

Affordable Housing for Medium-Sized Developments

- 3.7 The proposed removal of affordable housing requirements for medium-sized developments would reduce affordable housing delivery on viable sites in Wolverhampton in the short term, and potentially the longer term. Given that existing policies already specify that only viable sites are required to deliver affordable housing this proposal would not improve the viability of eligible schemes.

3.8 Therefore the following principles are proposed for a CoWC response:

- Oppose the proposed removal of the affordable housing requirement for sites of under 40-50 homes, as this would reduce affordable housing delivery, especially in urban areas where most medium-sized sites are located.

First Homes and Permission in Principle for Major Developments

3.9 The proposals for First Homes relate to implementation details rather than the principle of First Homes, which the Government is committed to. With regard to these details, the proposals align with the ABCA response to the previous consultation on this issue. Extension of the Permission in Principle (PiP) to major developments will have little impact, as the technical details consent required following PiP is effectively equivalent to that required for a full planning application. The PiP application fee will be less than for an outline application, however there should be less time required to assess a PiP application. Therefore, no specific response is proposed on these issues.

4.0 Consultation - Planning for the Future White Paper

4.1 This consultation sets out radical and wide-ranging proposals to reform the planning system in order to speed up and simplify the system, build 300,000 homes a year and improve the quality of design and place making. The key proposals which would affect the Wolverhampton are summarised below, together with an assessment of the likely impact and proposed principles for a CoWC response. It should be noted that the proposals are at an early stage of development and are likely to change following consultation. The reforms would involve wholesale replacement of existing planning legislation and guidance and would take a number of years to implement if taken forward in their current form, including further opportunities for consultation.

Local Plans and Development Management

4.2 The following changes to the Local Plan and development management process are proposed:

- Local Plans to identify three types of area: *Growth areas* suitable for substantial development (to be defined); *Renewal areas* suitable for development subject to certain conditions; and *Protected areas*. Sites in Growth areas would have automatic outline planning permission;
- Local Plans to focus on identifying sites / areas for development and specific standards and requirements for these, including design codes for Growth areas;
- General presumption in favour of development in *Renewal areas*, with consent granted through prior approval type processes (for pre-specified forms of development), a “faster” planning application process or local / neighbourhood development orders.
- Development management policies to be set nationally and Local Plans to be short and set out clear rules rather than detailed policies;
- Local Plan evidence requirements to be reduced, the sustainability appraisal process slimmed down and the “soundness” test replaced by a simpler “sustainable development” test;

- Local Plans to cover a 10 year period and to be produced to a statutory timetable of 30 months maximum (with sanctions for failure to comply) covering the following stages:
 - Issue “call for sites”
 - Publish draft plan for consultation
 - Consultation responses considered by Inspector as part of public inquiry
 - Planning Inspector makes changes to Plan
 - Adoption
- “Duty to Cooperate” requirement to be removed, subject to suggestions on what could replace it.

- 4.3 A simplified three zone system would not reflect the overlap between Growth, Renewal and Protect areas, and would be insufficient to replace the range of existing Local Plan designations currently required by national guidance, each of which has a distinct policy approach e.g. open space, flood risk areas, green belt, wildlife designations. However, subject to refinement, these categories could be applied to existing designations. The provision of more detail for Growth areas, including design codes, would accord with the common practice of preparing masterplans for larger development allocations. However, this and the need for sufficient information to grant outline approval for such sites, is likely to increase the time and resources necessary to produce Local Plans. The introduction of prior approval type processes for Renewal areas represents a continuation of recent trends towards slimmed down permission processes. However, the extent to which this could remove the discretion of the local authority to control development will depend on the detail of these processes, the required extent of Renewal areas and the scale of the developments affected.
- 4.4 The replacement of locally distinctive policies with standard national policies would be a major change to the existing system. However, this is unlikely to be wholly possible in practice, as local variations are necessary and desirable for most policy subject areas. It would be possible and welcome to reduce evidence requirements for Local Plans, however the proposal to remove viability and delivery evidence requirements is unhelpful, as these are the key factors affecting housing and infrastructure delivery. A substantial amount of evidence would still be required to determine if outline approval could be granted for Growth areas.
- 4.5 The proposed statutory Local Plan preparation timetable would strip out key stages from the process which ensure local democratic accountability and allow the early assessment of and consultation on alternative options. The timetable would not allow a local authority any opportunity to amend their Local Plan in response to public consultation, instead putting responsibility on the Planning Inspector to read and take account of consultation responses. These responses are likely to be extensive and detailed, as there will be only one round of public consultation on the Local Plan and limited opportunities to comment on the detail of proposals at a later stage. The resource implications of the Planning Inspectorate dealing with consultation responses and making changes to Plans needs careful consideration. In particular, the White Paper does not recognise the importance of multiple stages of public consultation in providing transparency and allowing for public debate on what are often controversial decisions. Reducing the Plan period to 10 years

would result in a lack of continuity in housing supply in areas like Wolverhampton, where many sites are constrained and take a number of years to bring forward.

- 4.6 The proposed removal of the Duty to Cooperate would represent a significant backward step in achieving strategic planning across the country and there is no indication of what mechanism would replace it. The Duty is not perfect in its current form, and a number of recently examined Local Plans have been found unsound over a failure to comply with its requirements. However, it is currently the only mechanism to compel local authorities to work together particularly over addressing cross-boundary issues, primarily housing delivery.
- 4.7 Without the Duty (or a similar system), there would be no mechanism for the housing and employment land needs of constrained urban areas such as the Black Country and Birmingham to be met where it is clear that a degree of 'exporting' to adjacent shire districts is needed. This would put even greater pressure on the Black Country authorities to release locally important areas of land in potentially unsustainable locations, (including in the Green Belt) for development. For Wolverhampton, the imposition of an unsustainable housing target which is 34% above existing urban supply (see para 3.3 above), would require significant export to neighbouring authorities, such as South Staffordshire. South Staffordshire Council (SSC) are currently committed to accommodating housing need from the Black Country, because this is required by the Duty to Cooperate. If, through the proposed changes, the Duty to Cooperate were removed and South Staffordshire's housing need was also increased, SSC would be far less likely to look to accommodate Black Country housing and employment land need and unsustainable pressure would be put on the limited areas of Wolverhampton Green Belt, which provide crucial education and leisure functions for local residents.
- 4.8 Therefore the following principles are proposed for a CoWC response:
- Oppose the introduction of simplified zones and support the retention of the existing system of Local Plan designations, which can be categorised into Growth, Renewal and Protect as appropriate.
 - Streamlined approval processes for minor / simple proposals could be supported. However, these simplified processes are inappropriate for major and complex proposals where local planning authorities need to retain the power to control poorly designed development and it is important that the public retain the ability to comment. A more effective way of speeding up the planning application process would be through enhanced resourcing of local authority planning functions, for example in terms of staffing levels, IT infrastructure and opportunities for enhancing the capacity of planning committees.
 - Support the use of design codes and masterplans to guide development of larger sites (e.g. over 1,000 homes), however oppose any requirement to include such detail in Local Plans rather than separate Supplementary Planning Documents, as this would slow the Local Plan process and require more evidence and information than would be available at such an early stage.
 - Support the shortening and simplification of Local Plans and the introduction of further policy detail into the NPPF/NPPG, however oppose the creation of standard national policies unless local authorities retain the discretion to adopt locally distinctive variants of these policies.

- Support the simplification of evidence requirements for Local Plans, however oppose the removal of key viability, delivery and sustainability appraisal requirements which ensure that Plans are sustainable and deliverable.
- Strongly oppose the proposed extreme shortening of the Local Plan preparation timetable and removal of key stages which provide opportunities for local authorities to respond to public consultation, which form the central plank of democratic accountability in the Plan-making process.
- Strongly oppose the removal of the Duty to Cooperate, unless it is replaced by a similar or stronger mechanism to ensure that local authorities work together across appropriate geographies to deliver strategic planning of growth and infrastructure.

Housing Targets

- 4.9 It is proposed to set a binding annual housing target for each local authority area, totalling over 300,000 homes nationally. This would be based on the new standard method (see section 3) but adjusted in some way to take into account the amount of land in each authority with designated environmental constraints such as green belt, high flood risk and national parks. Views are sought on the method to be used for this adjustment. The requirement for authorities to have a five year housing land supply would also be removed, leaving the Housing Delivery Test, which focuses on past performance rather than potential future supply, as the only potential mechanism for justifying housing proposals that are contrary to the Local Plan.
- 4.10 Redistribution of need based on a nationally-derived environmental constraint adjustment would be a blunt tool which does not take into account local environmental issues, sustainability and deliverability on a site by site basis. These key issues can only be properly evaluated, consulted upon and tested at a local level, through the Local Plan process. In addition, the proposed inflation of need to meet a 300,000 home annual target and the removal of the Duty to Co-operate would combine to make such housing targets unachievable.
- 4.11 In Wolverhampton, and the rest of the Black Country, the proportion of land with an environmental constraint falls below the national average, because most of the area is urbanised. If this proportion were used to adjust the housing need figure then the method would include an element of double-counting, because the baseline 0.5% increase in housing stock (see para 3.2) is directly related to the size of the existing urban area - effectively assuming a 0.5% intensification of the urban area each year. In the Black Country, sites in the urban area have been delivering a 0.5% uplift (of 2,494 homes) per year in recent years – this is also the case in Wolverhampton. The Urban Capacity Review Update 2019 demonstrates that the urban area is just about capable of continuing this 0.5% per year uplift up to 2038 – but no more. Therefore, a more reasonable national approach would be to adjust according to the proportion of the non-urban area with environmental constraints, and to apply this adjustment only to the element of need above the baseline. This would allow the method to reflect the capacity of non-urban areas to absorb need in excess of urban intensification. As the whole of the non-urban area of the Black Country is green belt, the Black Country authorities would receive the maximum downward adjustment under this approach.

4.12 Therefore the following principles are proposed for a CoWC response:

- Concern that the focus on controlling the standard method to generate over 300,000 homes a year could:
 - Result in housing targets which are unsustainable and undeliverable at a national and local level;
 - Necessitate future changes to the method, removing the consistency and certainty needed to expedite Local Plan preparation.
- Imposing binding housing targets whilst removing the Duty to Co-operate and viability and delivery tests for Local Plans would both undermine the effective delivery of housing and result in unsustainable developments in many areas.
- Adjustments to housing targets to reflect environmental and delivery constraints should be addressed and tested through the Local Plan process rather than through a blunt, inflexible national tool.
- If the decision is made to use a national adjustment, this should only relate to the proportion of the non-urban area with environmental constraints and apply only to the element of need over and above the 0.5% housing stock increase, to avoid double-counting.
- Support removal of the five year housing land supply requirement, subject to no additional weight being given to the Housing Delivery Test.

Fast-track for Beauty

4.13 The White Paper proposes:

- Design guidance and codes to be prepared locally and made binding on development;
- Changes to national policy and legislation to automatically permit proposals for high quality development where they reflect local character and preferences;
- Homes England to have greater emphasis on delivering beautiful places.

4.14 The proposals only require design codes to be prepared for Growth areas (see para 4.2). A size cut-off has not been provided for such sites, however this is likely to be c.1,000 homes and the requirement would therefore only apply to a few sites in Wolverhampton. Preparation of design codes is likely to require additional staff resources or appointment of consultants, however the White Paper states that more resources will be made available to local authorities.

4.15 Therefore the following principle is proposed for a CoWC response:

- Support the discretion to prepare binding design guidance and design codes for key sites, subject to the availability of sufficient resources.
- Support additional planning resource being made available to local authorities.
- Oppose the expansion of prior approval type processes, as these remove the ability of local authorities to control poor quality development and remove the right of the public to comment on proposals.

Planning Contributions

4.16 The White Paper proposes to:

- Remove viability tests and replace S106 contributions and the Community Infrastructure Levy with a nationally set, value-based flat rate charge called the Infrastructure Levy (IL);
- Local authorities to have flexibility on how to spend IL, including on-site affordable housing.

4.17 Currently local authorities do not have to adopt CIL, and where it is adopted, CIL operates alongside S106 agreements. Wolverhampton has not adopted CIL. S106 agreements are necessary to secure infrastructure or mitigation which varies from site to site, is essential for the development to go ahead and cannot be secured through conditions e.g. payments made to mitigate impacts on SACs; biodiversity mitigation; highways works; and adoption and maintenance of open space /SUDs. CIL does not have the flexibility to respond to site specific requirements in this manner. This is particularly important for Growth areas, where there will be complex on and off site requirements relating to the development as a whole, and to each specific phase, which cannot be secured through conditions.

4.18 The proposed IL would be set at a fixed national rate, without the flexibility to adapt to local viability and infrastructure requirements, as is the case for CIL. There is no guarantee that the IL would be sufficient to fund all of the infrastructure needed to support developments within a local authority area (e.g. schools, health centres, public open space) and it is unclear where resources would be found to meet the funding gap. This would be a particular problem in areas with low viability, such as Wolverhampton. CIL is payable at commencement, however IL would be payable on occupation, making it far harder to enforce and delaying the provision of essential infrastructure.

4.19 Therefore the following principles are proposed for a CoWC response:

- Strongly oppose the removal of S106-type powers, as these are essential to secure site specific infrastructure and mitigation necessary to make the development acceptable in planning terms.
- Strongly oppose the replacement of CIL with a statutorily required, nationally set IL with no flexibility to respond to local viability and infrastructure requirements.

Resources, Powers and Planning Application Targets

4.20 Other key proposals in the White Paper are to:

- Provide more resources for local planning authorities
- Strengthen enforcement powers
- Turn 8 and 13 week targets into firm deadlines with abolition of “extensions of time”
- Explore options to encourage faster build out.

4.21 The following principles are proposed for a CoWC response:

- Oppose removal of “extensions of time”, as these provide flexibility for the customer.

- Support provision of more resources for local planning authorities and strengthening of enforcement powers.
- Strongly encourage Government to focus its resources on unlocking and speeding up delivery on constrained brownfield sites, rather than remodelling the Planning system, as these constraints are the key blockage to delivery, not the Planning system.

5.0 Implications for Wolverhampton

- 5.1 The most immediate implication of the consultations for Wolverhampton is the potential introduction of the new standard method by early 2021. This would not significantly affect the Black Country housing need figure, however it would be very likely to significantly reduce the ability of the Black Country to export housing to neighbouring authorities and therefore place greater pressure on the Black Country authorities to release green belt for development. In particular, Wolverhampton's housing shortfall would increase to around 5,500 homes, putting unsustainable pressure on the limited areas of Wolverhampton Green Belt. It is likely that many authorities which are more directly affected will object strongly to the new method. Therefore, it is recommended that CoWC opposes the use of an unsustainable 300,000 home national target rather than specific elements of the method.
- 5.2 The White Paper contains a number of radical ideas to reform the planning system, however these are not well developed, are internally inconsistent and have significant flaws which together mean that the proposals are likely to be subject to significant change going forward. The Black Country Plan is at an advanced stage, with much of the evidence work well progressed. It is critical that the Black Country has an up to date Plan as quickly as possible, supported by a robust evidence base and informed by comprehensive community engagement. This will provide certainty for investment decisions and for our communities and provide a sound basis for planning decisions.
- 5.3 While elements of the White Paper will be likely to be subject to significant amendment, the new Planning system will continue to be Plan-led and will almost certainly contain transitional arrangements for well-progressed Plans. The completion of a full suite of evidence and public consultation on a Draft Plan can be completed by mid 2021, before any major national changes take place. The Draft Plan can then be adjusted to reflect any emerging national changes, if necessary, before Publication and Submission in 2022.

6.0 Proposed Response

- 6.1 The principles for a City of Wolverhampton Council (CoWC) response to the Government planning consultations are set out in paragraphs 3.6, 3.8, 4.8, 4.12, 4.15, 4.19 and 4.21 of this report. Scrutiny Board undertook pre decision scrutiny on these principles. Their comments and observations will be reported to Cabinet. The CoWC response will sit alongside a similar Black Country response to be approved by the Association of Black Country Authorities (ABCA). As the deadline for responses to the first consultation is 1 October, a draft response has been sent pending approval by Cabinet.

7.0 Evaluation of alternative options

7.1 The alternative option would be not to submit a City of Wolverhampton Council response to the Government consultations. The consultation proposals could have significant implications for Wolverhampton, therefore this option has been discounted.

8.0 Reasons for decision

8.1 Cabinet approval is required to submit formal City of Wolverhampton Council consultation responses to the Government.

9.0 Financial implications

9.1 There are no direct financial implications arising from the recommendation of this report.
[HM/18092020/C]

10.0 Legal implications

10.1 There are no direct legal implications arising from the recommendation of this report.
[TS/09092020/W]

11.0 Equalities implications

11.1 There are no equalities implications arising from the recommendation of this report.

12.0 Climate change and environmental implications

12.1 There are no climate change and environmental implications arising from the recommendation of this report.

13.0 Health and Wellbeing Implications

13.1 There are no health and wellbeing implications arising from the recommendation of this report.

14.0 Human resources implications

14.1 There are no human resources implications arising from the recommendation of this report.

15.0 Corporate landlord implications

15.1 There are no corporate landlord implications arising from the recommendation of this report.

16.0 Covid Implications

16.1 There are no Covid implications arising from the recommendation of this report.

17.0 Schedule of background papers

17.1 Changes to the Current Planning System (MHCLG, August 2020)

17.2 Planning for the Future (MHCLG, August 2020)