



Report of	Meeting	Date
Director of Planning and Development	Central Lancashire Strategic Planning Joint Advisory Committee	22 June 2021

## Planning Reform Update

### Purpose of report

1. To provide an update on the reforms to national planning policy

### Recommendation(s)

2. To note the contents of the report.

### Executive summary of report

3. The paper provides an update on the key changes proposed to national planning policy and planning reform generally following a series of Government consultations over the past few years aimed to fix what is described as the 'broken housing market'.

<b>Confidential report</b> Please bold as appropriate	Yes	<b>No</b>
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### Reasons for Recommendation(s) (If the recommendations are accepted)

4. None, for information only.

### Alternative Options Considered and Rejected

5. None.

### Background

6. The Government has been proposing to make significant changes to national planning policy with the objective of simplifying plan-making, speeding up decision-making, achieving beauty and to boost housing supply. Recent developments have confirmed that these plans are to be implemented with the Queens speech referring specifically to a forthcoming Planning Bill and the Minister of State for Housing Christopher Pincher issuing a written ministerial statement on 1<sup>st</sup> April 2021 which sets out changes to planning policy which will come into effect on 28<sup>th</sup> June 2021. This paper

provides some update on the key changes.

7. The government's Planning White Paper 'Planning for The Future' proposed requiring local authorities to zone land into one of the following three categories:

**Growth** – these are areas where development will be approved at the same time that plans are prepared, resulting in the quick and efficient delivery of new schools, homes, shops, and business space

**Renewal** – areas classified under this bracket will be suitable for 'some' development, such as covering existing built areas "where smaller scale development is appropriate".

**Protection** – this allows local authorities to protect areas such as natural parks and areas of outstanding natural beauty from development.

The reforms also proposed include:

- Ending the use of Section 106 agreements for developer contributions, replacing it with a national infrastructure levy
- The imposition of mandatory, centrally set housing targets.
- The creation of new, more simple local plans
- A fast track system for 'beautiful buildings'
- All new build homes being "zero carbon ready"; and
- The introduction of Design Codes.

## The Queens Speech

8. On 11<sup>th</sup> May 2021, the Queen made her speech outlining the plans for a forthcoming Planning Bill which would consolidate the Government's plans for planning reform and eliminate any doubt that these plans are to be implemented. The published notes accompanying the Queen's speech remind us of the key aims of the Planning Bill:

The purpose of the Bill is to:

- Create a simpler, faster, and more modern planning system to replace the current one that dates to 1947, and ensuring we no longer remain tied to procedures designed for the last century
- Ensure homes and infrastructure – like schools and hospitals – can be delivered more quickly across England
- Transform our planning system from a slow document-based one to a more efficient and easier to use digital and map-based service, allowing more active public engagement in the development of their local area
- Help deliver vital infrastructure whilst helping to protect and enhance the environment by introducing quicker, simpler frameworks for funding infrastructure and assessing environmental impacts and opportunities.

The main benefits of the Bill would be:

- Providing more certainty for communities and developers, particularly smaller developers, about what is permitted where, through clear land allocations in local plans and stronger rules on design.
- Simpler, faster procedures for producing local development plans, approving major schemes, assessing environmental impacts and negotiating affordable

housing and infrastructure contributions from development.

- Establishing a framework which focuses on positive outcomes, such as environmental opportunities and better designed places.
- Digitising a system to make it more visual and easier for local people to meaningfully engage with.

The main elements of the Bill are:

- Changing local plans so that they provide more certainty over the type, scale and design of development permitted on different categories of land
- Significantly decrease the time it takes for developments to go through the planning system
- Replacing the existing systems for funding affordable housing and infrastructure from development with a new more predictable and more transparent levy
- Using post-Brexit freedoms to simplify and enhance the framework for environmental assessments for developments
- Reforming the framework for locally led development corporations to ensure local areas have access to appropriate delivery vehicles to support growth and regeneration

9. The notes also provide a series of 'Key facts':

- There is very little meaningful public engagement in the current planning system, at present only around 3 per cent of local people engage with planning applications, and for local plan consultations engagement can fall to less than 1 per cent.
- As of February 2021, only around 41 per cent of Local Authorities have an up-to-date local plan in place.
- Updating a local plan currently takes an average of 7 years.
- Thirty years ago, smaller builders were responsible for around 40 per cent of new homes built, but currently this figure is only 12 per cent

10. The current system does not lead to enough homes being built, especially in those places where the need for new homes is the highest. Adopted Local Plans, where they are in place, provide for 192,725 homes per year across England (as of March 2021) – significantly below our ambition for 300,000 new homes annually. As a result of this long-term and persistent undersupply, housing is becoming increasingly expensive

## **Next Steps**

11. There is no indication of a timeline for the publication of the Planning Bill or implementation of the measures, Autumn 2021 was hinted at however experts believe that it will not be possible to achieve this and it is more likely to be 2022 for bill publication and later in 2022 for passing. Officers are already thinking about how to 'future-proof' the emerging Central Lancashire Local Plan to ensure that no work is abortive and the plan can progress smoothly, which includes building into new contracts the flexibility for consultants to respond to changes in policy for example, the Viability and CIL Review, as this may be impacted heavily if the CIL is replaced with a national

levy and withdrawal of Section 106.

## **Climate Change and Biodiversity Net Gain (BNG)**

12. The Queen's speech also confirmed the United Kingdom is committed to achieving net zero greenhouse gas emissions by 2050, hosting the COP26 Summit in Glasgow and with the (Environment Bill) to set binding environmental targets which will also impact on planning policy, with the mandating of 'biodiversity net gain' to the value of no less than 10%, and developers required to produce a BNG plan for their proposals and Councils will be required to maintain a Biodiversity gain register.
13. Biodiversity net gain (BDG) was the topic of a Government consultation in 2018/19 which set out aims to ensure development enhances the environment providing a mechanism by which the hidden costs of development such as biodiversity loss can be calculated and a system to redress the balance put in place.

### **What is net gain?**

14. Biodiversity net gain follows on from the Governments' aim in its 25 Year Environment Plan to 'leave the environment in a better state than we found it' and amongst a number of new measures and statutory mechanisms, the most relevant of these to the Local plan and planning authorities is the forthcoming mandatory requirements for delivery of biodiversity net gain via the planning process, which will be introduced by the Environment Act, and are linked to the preparation of a statutory nature recovery strategy (which will be the responsibility of the upper tier in two-tier areas).
15. Developers will be required to deliver at least 10% improvement in biodiversity value, leaving the natural environment in a measurably better state than beforehand. This means protecting existing habitats and ensuring that lost or degraded environmental features are compensated for by restoring or creating environmental features that are of greater value to wildlife and people. It does not change the fact that losses should be avoided where possible, a key part of adhering to a core environmental planning principle called the mitigation hierarchy.
16. Many developers and local planning authorities already provide environmental improvements through well-designed development, but do not measure losses and gains and so do not make claims of biodiversity or environmental net gain. Some developers are going further to measure and ensure that each development enhances biodiversity.
17. Mandating biodiversity net gain via a BNG plan with every planning application, should provide the incentive and consistency in approach for other developers to deliver gains for the natural environment, improving wildlife habitats in quality or extent, although effective monitoring of delivery via implementation of the approved planning consent will be crucial.

### **Next Steps**

18. There already exists the Central Lancashire Biodiversity and Nature Conservation SPD (2015) which provides guidance for planning applicants. In addition to commissioning key pieces of work such as the Habitats Regulations Assessment (HRA), we are engaged at a Lancashire level with the Nature Recover Partnership which will oversee the preparation of the Nature Recovery Strategy, which will be the spatial plan for BNG, a key component of the approach.
19. The Councils are involved in the Ancient Woodland Inventory for Lancashire which will map out key areas for future potential investment via BNG and the Councils also have our evidence supporting the Open Space Sports Recreation Strategy which includes green spaces and natural habitats. Further, officers are engaged with LCC in the early

preparation ahead of a Local Nature Recovery strategy for Lancashire.

20. PAS have been offering learning sessions for Councillors on BNG and officers can provide details however, if JAC members are interested, officers can organise a briefing session for JAC members at a future meeting on BNG and the implications for the new Local Plan.
21. Further consultations on BNG are expected to be published by DEFRA in July 2021 and details of these will be brought to JAC as well as the three Local Plan Working Groups.
22. Draft secondary legislation is expected to follow the consultations, with mandatory BNG to be in place by Autumn 2023. This will bring new statutory requirements on councils which will not only promote nature recovery but also contribute to our climate change objectives.
23. For the Local Plan, BNG requirements will need to be considered as part of the viability work, particularly if we are to seek higher than 10% additional value in BNG via our new policies. It will also need to be weaved into the infrastructure funding statement and also Open Space and Sports Strategies, to ensure BNG is targeted to deliver where most appropriate and with biggest impact, not only for nature recovery but also taking account of local preferences and priorities. Open/Green spaces have become very important to local people through this pandemic and so this mechanism is likely to be received positively with local communities and they may want a say too in where it is reinvested if not on the original development site.

## **First Homes**

24. The Minister of State for Housing (Christopher Pincher) issued a Written Ministerial Statement on 24<sup>th</sup> May 2021 with changes to planning policy to come into effect on 28<sup>th</sup> June 2021. These include:
  - The definition of a First Home
  - Eligibility criteria for First Homes
  - Setting developer contributions for First Homes
  - The remaining 75% of affordable housing secured through developer contributions
  - Plans, development management and transitional arrangements
  - Level of discount
  - Exception sites
  - Delivering Shared Ownership
  - Delivering Shared Ownership homes
25. On 10/6/2021 MHCLHG published a Q & A document (Appendix 2) which provided their response to questions raised by Councils at a workshop in April 2021. This document provides some clarity but there remains an absence of detail particularly around model agreements and resourcing.
26. From 28 June 2021, amendments will apply to the NPPF which result in a change to the definition of affordable housing, as First Homes will be considered to meet the definition of 'affordable housing' for planning purposes. The First Homes Criteria means: A First Home must be discounted by a minimum of 30% against the market value; and, after the discount has been applied, the first sale of the home must be at a price no higher than £250,000 (or £420,000 in Greater London).
27. The minimum discount for First Homes should be 30% from market value, which will be set by an independent registered valuer. The valuation should assume the home is sold as an open market dwelling without restrictions. Where evidence justifies it (either in the local or neighbourhood plan, an emerging policy or, where appropriate, a Supplementary Planning Document), the minimum discount in an area can be increased

to 40% or 50%.

28. Local authorities will be able to set a deeper minimum discount at either 40% or 50% and impose lower price caps if they can demonstrate a need for this through evidence. However, the same level of discount as a percentage below market value must apply to the home each time it is sold in perpetuity (subject to certain specific exclusions), so that communities continue to benefit from the homes for years to come. Also, the MHCLG risk assessment for First Homes does suggest an impact on the delivery of remaining rented tenures (see paragraph 21). This means even at 30%, the Government expects there to be some impact on the ratio of First Homes to Social (or affordable) rented units delivered on a scheme.
29. The discount in perpetuity should be secured through a planning obligation and in order to ensure that suitable mortgages are available for First Homes, local authorities should provide for a mortgage lender enforcing its security over a First Homes to be able to realise the full market value of the property, returning any surplus up to the value of the First Homes discount to the local authority. This means that properties will not be affordable in perpetuity although a receipt of the discount value will be returned upon sale.

### **First Homes Eligibility Criteria**

30. First Homes must be prioritised for first-time buyers and not be sold to any household with a combined annual income in excess of £80,000 (or £90,000 in Greater London). Local authorities will be able to apply additional criteria at a local level. For example, they may wish to set a lower income cap, prioritise key workers (who also meet the first-time buyer definition) and / or specify a particular local connection requirement based on work or current residency. Neighbourhood plans will also be able to apply these additional criteria at neighbourhood level.
31. A person who can afford to purchase a First Home without a mortgage should not be eligible to purchase a First Home. As a deterrent against the use of First Homes for investment, all purchasers of First Homes must use a mortgage or home purchase plan (if required to comply with Islamic law) for at least 50% of the discounted purchase value.
32. If local authorities or neighbourhood planning groups choose to introduce their own eligibility restrictions, these will be time-limited to the first three months from the start date of marketing of the property. Upon expiry of the three-month period, any homes which have not been sold or reserved will revert to the national standard criteria set out above. This is to ensure that homes do not remain unsold if suitable buyers in the local area cannot be found.
33. To support developers and local authorities in using First Homes, the Government are developing model section 106 obligations that can be used to secure First Homes at the planning stage. These will make it easier for developers to meet national requirements, for local authorities to consider imposing their own time-limited restrictions and will protect the interest of mortgage lenders by ensuring they can realise the full market value of the property in defined exceptional circumstances. These model obligations will also contain wording for a model title restriction, which will be recognised by HM Land Registry and will ensure the homes retain their discount in perpetuity.
34. The Government state that First Homes are intended to be used as a person's sole or primary residence and should not be used for investment or commercial gain, however recognise that there are occasions when it may be necessary for owners of First Homes to let out their property for short periods of time, especially in response to unexpected life events. Therefore, a First Homes owner can only rent out their home for a maximum period of two years, as long as the relevant local authority is notified. Recognising that

certain circumstances require a unique response; local authorities should be willing to grant permissions to rent out for longer periods under prescribed circumstances.

## **Changes to Developer Contributions**

35. To support the future development of First Homes, the Government has introduced changes to developer contributions which will come into effect from 28 June 2021. This fundamental change will require that a minimum of 25% of all affordable housing units secured through developer contributions should be First Homes.
36. This means that of the 30% split our Affordable Housing SPD policy allows for intermediate home ownership (of which we usually accept shared ownership), in future these will be First Homes units. So, for example, crudely if a development is required to provide 100 affordable homes, the mix will be:
  - 25 First Homes
  - 5 Shared Ownership
  - 70 social rent
37. Whilst this new policy has ramifications for the councils, in theory it should not reduce the achievement of 70% social rented units on applicable section 106 sites. What it will do is prevent the three councils from increasing the provision of social rented affordable housing on section 106 sites beyond 75% in the new local plan, as the government stipulates a minimum of 25% of First Homes.
38. Where cash contributions for affordable housing are secured instead of on-site units, a minimum of 25% of these contributions should be used to secure First Homes. Where a mixture of cash contributions towards affordable housing and on-site units are secured, 25% of the overall value of affordable housing contributions should be applied to First Homes.
39. The exceptions for delivery of affordable housing will remain unchanged.
40. The guidance published states that Local plans and neighbourhood plans should consider the new First Homes requirements from 28 June 2021. Local authorities may therefore need to review the tenure mix for the remainder of the affordable housing that they are seeking to secure. However, we also recognise that there will be a number of local plans and neighbourhood plans that have been prepared based on the existing National Planning Policy Framework and that have reached more advanced stages of the plan-making process. Government do not intend that the evidence base for these should be re-opened, thus delaying the plan-making process.
41. There are transitional arrangements for LPAs where a new local plan has been prepared however these are for publication stage and later and therefore do not apply to Central Lancashire.

## **Local Policy Statement**

42. Where local and neighbourhood plans do not benefit from the transitional arrangements, the local planning authority should make clear how existing policies should be interpreted in the light of First Homes requirements using the most appropriate tool available to them. Therefore, there is a need for the three Councils (and possibly the three Central Lancashire Authorities as joint plan-makers/owners of the Core Strategy which includes policy on Affordable Housing) to issue a statement or policy update with regards First Homes.

## Impact on Planning Applications and Extant Permissions

43. The new requirement for 25% First Homes will not apply to sites with full or outline planning permissions already in place or determined (or where a right to appeal against non-determination has arisen) before 28 December 2021 (or 28 March 2022 if there has been significant pre-application engagement), *although local authorities should allow developers to introduce First Homes to the tenure mix if they wish to do so*. This is an important point as it is likely that developers will seek to do this in Chorley.

### Next Steps

Each Council will need to consider individually the implications of First Homes for their Council. With regards to impacts on the new Local Plan, this new national policy will need to be taken into account as part of the viability study which will look at the impacts of policy options and developer contributions on draft policies and site allocations, and crucially, will influence any proposed changes we wish to make to our Affordable Housing policies (currently policy 7 Core Strategy) particularly concerning % contribution and types/tenures.

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