

NORTH DEVON COUNCIL

Minutes of a meeting of Strategy and Resources Committee held at Virtual - Online meeting on Monday, 19th October, 2020 at 10.00 am

PRESENT: Members:

Councillor Worden (Chair)

Councillors Knight, Lofthouse, Pearson, Prowse, L. Spear and Yabsley

Officers:

Chief Executive, Head of Resources, Head of Place, Lead Officer - Planning Policy, Senior Planning Policy Officer and Planning Policy Officer

Also Present:

Councillors Luggar, Mackie, D. Spear and Tucker

193. VIRTUAL MEETING PROCEDURE - BRIEFING AND ETIQUETTE

The Chair outlined the virtual meet procedure and etiquette to the Committee and attendees.

The Senior Corporate and Community Services Officers confirmed the Members of the Committee, Members, Officers and external attendees who were present.

194. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Barker, Patrinos and Wilkinson.

195. ITEMS BROUGHT FORWARD WHICH IN THE OPINION OF THE CHAIR SHOULD BE CONSIDERED BY THE MEETING AS A MATTER OF URGENCY.

The Chair advised the Committee that there would be an informal briefing for Members following the Committee regarding the Council's financial position.

196. DECLARATIONS OF INTERESTS.

There were no declarations of interest announced.

197. PLANNING FOR THE FUTURE WHITE PAPER

The Committee considered the questions contained within the Planning for the Future White Paper (circulated previously).

Following consideration of the verbal report by the Lead Officer Planning Policy and Senior Planning Policy Officer, the Committee agreed that the following comments formulate the response to the questions contained in the Planning for the Future White Paper:

Pillar 1

1. What three words do you associate most with the planning system in England? Democratic, under-resourced and contentious.

2(a). Do you get involved with planning decisions in your local area? Yes as local planning authority

2(b). If no, why not? Not applicable.

3. Our proposals will make it much easier to access plans and contribute your views to planning decisions. How would you like to find out about plans and planning proposals in the future? [Social media / Online news / Newspaper / By post / Other – please specify] Other – All of these options and to also include library, neighbourhood and newsletter as recognised the importance of digital communications. However, it was not only about online since traditional media/approaches remained important in North Devon due to the rurality of the area and lack of comprehensive broadband coverage, plus an ageing population.

4. What are your top three priorities for planning in your local area?

[Building homes for young people / building homes for the homeless / Protection of green spaces / The environment, biodiversity and action on climate change / Increasing the affordability of housing / The design of new homes and places / Supporting the high street / Supporting the local economy / More or better local infrastructure / Protection of existing heritage buildings or areas / Other – please specify]. Other – All of the above – they are all important and about delivering sustainable development and place making. Also include more or better local infrastructure.

5. Do you agree that Local Plans should be simplified in line with our proposals? No. The White Paper lacked detailed of how it would operate. Agree that it should be simplified and quicker to produce and welcome certainty it could provide to developers and the local community. However, there were many unanswered questions due to the lack of detail including:

- How do we articulate a vision and strategy for the plan?– Focus only on specific development proposals loses important aspect of planning and place making
- Is the categorisation system over simplified? - Need to be able to differentiate between places and take account of local circumstances.
- Unclear if can sub-divide the categories and apply different approaches to respond to different needs and context.

- Should be specific control for growth and which design parameters should need.
- Concerns regarding the three zones including:
 - **Protected areas** – how does the council take account of local issues, ambitions, vision, etc. if having to use national policies?
 - **Renewal areas** – Concerns about areas that would traditionally be subject to overlapping approaches – i.e. town centres that are also conservation areas.

6. Do you agree with our proposals for streamlining the development management content of Local Plans, and setting out general development management policies nationally? No. Consider that there was scope for streamlining the development management content of Local Plans, and that some of these Policies should not need to be repeated if they appear within a revised National Planning Policy Framework (NPPF) (such as amenity considerations, design principles (where not detailed within a design code) etc). It was essential that there must be scope for the inclusion of locally drafted Development Management (DM) Policies at the discretion of the Local Planning Authorities. It was essential that such flexibility was available to meet the varying needs of differing Local Authorities' particular circumstances and to ensure successful place making in accordance with Members' vision for the area. For example: include DM Policies relating to both rural development supporting the rural communities and tourism and leisure development within a rural district where these sectors are of considerable importance. The proposed 'alternative option' was therefore considered to be appropriate to allow the flexibility to respond to the individual needs of differing Authorities and allow these areas the ability to flourish in a planned for and sustainable manner. Concern was expressed regarding the practicality of producing rules without local influence, the reduction of local DM policies and removal of officers' and Members' flexibility to be able to respond.

7(a). Do you agree with our proposals to replace existing legal and policy tests for Local Plans with a consolidated test of "sustainable development", which would include consideration of environmental impact? Not sure. There was insufficient detail in this proposal and it would be dependent upon content of the consolidated "sustainability test". Current tests were clear and simple to apply, but do recognise that a substantial amount of evidence and documentation was required to support the examination of the local plan. Accept that a sustainability appraisal was a large undertaking, but it does provide checks and balances including the justification for the chosen strategy and sites in the Plan. Key questions include:

- What would be the definition of sustainable development?, It's important to include all three strands
- How will the plan be examined – what would be the rules?

7(b). How could strategic, cross-boundary issues be best planned for in the absence of a formal Duty to Cooperate? Clear that the Duty to Cooperate does not work in current form and welcome consideration of review. However essential that some mechanism for cross boundary strategic planning, with neighbours and across tiers. There was need for reform rather than wholesale removal. For

example it can't be met after submitting the local plan, which has caused several plans to fail across the country, even when solutions have been found.

8(a). Do you agree that a standard method for establishing housing requirements (that takes into account constraints) should be introduced? Not sure. Welcome certainty provided by guidance on approach to be taken, but it should not be binding on local authorities as it needed to be able to take account of local circumstances. Planning was meant to be about place making incorporating sustainable development factors. It cannot be derived from an algorithm. Consider the Standard methodology was a shift from need to the delivery of Government ambitions.

Further questions include: how would the local constraints be factored into the calculation? Will there be discussion with Local Planning Authorities (LPAs)?

The reality was the imposed numbers would not result in delivery if the housing market was unable to absorb the new requirement and potentially setting up the LPA to fail from the beginning. If the figure was binding on the LPA then delivery should be binding on development industry with sanctions if it failed to deliver. Welcome the removal of five year land supply. The Government have put in place increasingly stringent tests, which have been interpreted inconsistently by inspectors. It results in a developers' charter and not a truly plan led system. Under the current local plan system the number of houses required was linked to the growth agenda and this was not included in the proposed new calculation. There should be a standard methodology for the calculation for the number of houses required in local areas and consideration of local environmental constraints were required to determine the local outcome and capacity to deliver.

8(b). Do you agree that affordability and the extent of existing urban areas are appropriate indicators of the quantity of development to be accommodated?

No. No empirical link between affordability and housing numbers. Increasing numbers would not assist affordability or result in higher delivery where there is a constrained housing market, which is dependent on a range of other factors such as:

- development finance,
- wider housing market,
- access to lending.

The scale of an existing urban area was not a good proxy for need which was dependent upon demographics, for example young single households vs inter-generational housing, etc. It should be based on need. There would be a failure to deliver starting with the artificial 300,000 figure which had not been justified and evidence based through projected births, deaths, migration, etc.

9(a). Do you agree that there should be automatic outline permission for areas for substantial development (Growth areas) with faster routes for detailed consent?

Not sure. Agree with principle however need clarity of detail. In theory, an existing Local Plan (LP) allocation should already provide that certainty. Is this a question for the development industry to answer as to why they submit outline applications on allocated sites? It provides confidence. Concerns over level of work/evidence/skills required at LP stage to enable certainty. Who would carry this out, how would it be funded, how would it fit in timeframes? Need to include greater

consideration of principles. How would this be achieved within current resources? How would community engagement and technical evidence be achieved for assessing 600 sites and allocating 100 of these sites for drainage, ecology etc. Concerns over ability to still have route for non-conforming uses. For example, faster routes to detailed consent still need to cover all issues and be supported by sufficient evidence. What happens if ecological issues change over time from the point of inclusion in the Plan to delivery on site? Importance of continued community and democratic engagement? What about design codes/ masterplans – should these be in place at LP stage? What was a growth area and how was it defined? What was substantial and could it be applied to villages? It should be relative. Should include small sites on edge of villages. Does not ensure deliverability for the LPA or community. Developers are restricting supply to maintain prices.

9(b). Do you agree with our proposals above for the consent arrangements for Renewal and Protected areas? No. Could agree with the approach to ‘protected’ area, albeit with the flexibility added via the use of exceptional local DM Policies as discussed in (6) above. Consider that the consent arrangements for ‘renewal’ areas could lead to a complex consenting regime, adding uncertainty to local communities and delay to the planning system. A permission route which gives automatic consent if a scheme meets design and prior approval requirements may be open to interpretation and contention again resulting in uncertainty and delay. This had been the case with the introduction of historic ‘prior-approvals’ which have required the extensive use of the appeals process in order to gain case law which aids interpretation. The use of design codes was supported, although interpretation of the design code may differ, and automatic consent may not allow the ‘added value’ which a more traditional DM process adds in improving submitted schemes for communities and developers benefit. The ability to submit a planning application for a scheme which departs from the plan was essential to aid consideration of individual developments which, due to other material considerations, may be acceptable. In addition, suggest that the ability for all proposals to be considered by neighbours and other interested parties where the principle of development had been established via the Local Plan be required to allow consideration of material issues at the point of a scheme coming forward, which could be a number of years after a Local Plan was adopted.

9(c). Do you think there is a case for allowing new settlements to be brought forward under the Nationally Significant Infrastructure Projects regime? No. Significant Infrastructure Projects are major infrastructure projects which have a separate development consent regime with the Planning Inspectorate examining applications for development consent. Should be a local decision responding to local circumstances and local views about how to accommodate required growth. Need to retain local decision making on proposals when they come forward.

10. Do you agree with our proposals to make decision-making faster and more certain? No. The Council does not agree with the specific proposals to make decision making faster and more certain and do not feel that the proposals will benefit the quality of development or the democratic process. The well-established time limits of 8 and 13 weeks are currently able to be extended by agreement with applicants. ‘Extensions of time’ (EoT) are not a ‘get around’ as stated within the White Paper, more a tool that was equally valuable to applicant and communities as well as a Local Planning Authority. The use of EoT’s allows for

proper consideration and continued improvement of schemes to the benefit of all parties. (If an applicant felt that there was no benefit, it was open to the applicant not to agree an EoT). An unintended consequence of this could be more applications being refused due to having to achieve a firm deadline, resulting in further delay and costs via the appeal process, which could have expediently been dealt with via a short agreed EoT. Suggest a more appropriate solution would be to allow a further single EoT for additional matters to be dealt with, following which an application must be determined. Disagree that following consideration at planning committee, applicants should be entitled to an automatic rebate of the planning fee if they are successful at appeal. The White Paper indicates that consideration of detailed matters is principally a matter for professional planning judgement. However, the Council believes that true planning judgement, be it professional or Member led, should not be influenced by considerations of a financial matters in terms of potential significant financial impacts on a Local Authority. Also decision making can in some instances be either subjective (in matters such as design), a case of Policy interpretation, or indeed a matter of weighting factors in the planning balance. A differing, but reasoned, professional judgement on these matters should not warrant the automatic rebate of fees. The current appeal costs regime ensures that there were sufficient penalties to discourage any 'unreasonable' decision making. Concerns that the determination of detailed planning decisions should be solely delegated to Planning Officers where the principle of development has been established. Whilst principally a matter of professional planning judgement, community and democratic engagement can add value to this stage of the process and allow the input of views from parties whom may not have been engaged with consultation at the Local Plan drafting stage. This engagement often results in better place making, with opportunities for enhanced quality of development and place which would may not be achieved through the strict following of a design code to the benefit of intended occupiers and the surrounding area and communities. The Plantech innovation should be encouraged to help achieve more efficient processes. Such innovation would need to be adequately resourced and standardisation was supported where appropriate.

11. Do you agree with our proposals for accessible, web-based Local Plans?

Not Sure. The principle of accessible, web-based Local Plans was supported but a proposed template or structure was required. However, Local Plans and engagement on their preparation must also remain easily accessible for residents without access to the internet. Small rural authorities may have issues of access to technology and expertise. Mindful of those without access to technology and alternatives were required.

12. Do you agree with our proposals for a 30 month statutory timescale for the production of Local Plans?

No. Welcome principles of speeding up process but the timetable was unrealistic. Process doesn't allow for place making as it was an iterative process not only front loaded engagement. Plan making should be more organic process. Efficiencies from parts removed is not going to make up for the additional detail that would be required or the engagement that should occur. Far more important to engage with the community than previously but it does not allow for meaningful engagement. Difficult to understand how it could be achieved without sufficient detail in proposal. Contradiction between speeding up and front loading to

the plan stage. Could be counter-productive and may be minded to leave out sites or areas if not forthcoming in the first 6 months.

13(a). Do you agree that Neighbourhood Plans should be retained in the reformed planning system? Yes, agree that should be retained. Can be a powerful tool for local communities, although recognise they are a big undertaking to produce. Unclear what they will be able to achieve under new proposals. Often about providing locally distinctive policies for development, which are often DM type policies, which the government are considering removing from the planning system. Will they just become design codes for development? Neighbourhood Plans should be retained as input from local communities was vital and further adequate resources were required to support communities with this process.

13(b). How can the neighbourhood planning process be developed to meet our objectives, such as in the use of digital tools and reflecting community preferences about design? Capacities, skills and knowledge – willingness and access to software and associated costs.

14. Do you agree there should be a stronger emphasis on the build out of developments? And if so, what further measures would you support?

Yes – need to focus on this. No tools for LPAs. There was a requirement for the delivery of 17,200 houses. The current Local Plan required over 20,000. Developers need to be more accountable for the progress of their sites, with sanctions on developers who do not deliver.

Pillar 2

15. What do you think about the design of new development that has happened recently in your area? [Not sure or indifferent / Beautiful and/or well-designed / Ugly and/or poorly-designed / There hasn't been any / Other – please specify] Other. Design relates to the appearance of buildings but also the space around them and how they fit into the surrounding community and how the buildings and locality function. It is about place making and not just about the external aesthetics of a building:

- Subjective judgement but varied – Often Uninspiring or Indifferent. Often anodyne, not enhancing a locality
- If you walk/drive through new housing estates there are often rows of standard house types with limited open spaces, green infrastructure & inadequate off-street parking?
- Lack of creativity – often standard designs for major house builders. Lack of industry skills and capacities.
- Lack of focus on design nationally – appeal decisions do not support importance of design. Does not give confidence to LPAs to challenge.
- Other priorities / 5 Year Housing Land Supply / Viability – quality often costs more.

16. Sustainability is at the heart of our proposals. What is your priority for sustainability in your area? [Less reliance on cars / More green and open spaces / Energy efficiency of new buildings / More trees / Other – please specify]. Other.

Sustainability relates to all of the above as well as other factors. Social, economic and environmental considerations need to be considered together in a holistic way. They are all important. Importance of infrastructure coming alongside development.

17. Do you agree with our proposals for improving the production and use of design guides and codes? [Yes / No / Not sure. Please provide supporting statement.] Yes. It is proposed that design guides and codes must have effective input from the local community and that decisions must be made in line with them. Can provide context and key design requirements, such as height, layout, materials, but concern that they should not stifle creativity. Support preparation in principle for Growth Areas (allocations). Unsure what level of detail or master planning can be set out in a design code. Unclear if prepared alongside Local Plan (LP) or after it or whether examined as part of LP examination. Big resource implications for design codes for each Growth Area and every Renewal Area. Within Renewal Areas, if too vague they can endorse development delivering more standard house types. Potential that will stifle creativity. Concern over capacities, skills and experience in LPAs to facilitate delivery. Timings of preparation alongside LP otherwise would impact of slowing down development.

18. Do you agree that we should establish a new body to support design coding and building better places, and that each authority should have a chief officer for design and place-making? Not Sure. Design and place making are important, although difficult to see exactly what the role would do different to Chief Planning Officer? Need more detail. An enhanced national recognition of the role of the Chief Planning Officer in championing design would be better. A Lead Member should also be in place to drive design coding and building better places. Is the development industry willing to support designs that may not fit their standard house type?

19. Do you agree with our proposal to consider how design might be given greater emphasis in the strategic objectives for Homes England?
Yes it was important and should be welcomed.

20. Do you agree with our proposals for implementing a fast-track for beauty?
No. Proposals which comply with pre-established principles of good design (ie design codes and designs informed by the community) get consent more quickly. Allow pre-approval of popular and replicable designs through PD. Propose a limited set of form-based development types, which can be modified by those most popular locally. Not supported as stifling creativity, and not reflecting local context. Seek to move away from standard house types and monotonous estates, even if brick colours can be changed. Unclear who determines whether a proposal is in accordance with design code principles. If determined by developer then effectively granting themselves prior approval. Good designs should reflect the surrounding character and context not inserting pre-approved patterns that may not be appropriate there. Too much emphasis on physical 'beauty' and not function. Beauty is only one aspect of a proposal. Needs to be part of the planning judgement. Insufficient detail to fully comment. Concerns over pattern books, etc. and standardisation which are not high quality and locally distinctive – not responsive to context. Importance of negotiation to improve outcomes.

Pillar 3

21. When new development happens in your area, what is your priority for what comes with it? [More affordable housing / More or better infrastructure (such as transport, schools, health provision) / Design of new buildings / More shops and/or employment space / Green space / Don't know / Other – please specify]. Other. Good 'place making' requires consideration of all of these matters, and many more. They are all important and need to be considered in combination. Important to create mixed and balanced communities.

22(a). Should the government replace the Community Infrastructure Levy and Section 106 planning obligations with a new consolidated Infrastructure Levy, which is charged as a fixed proportion of development value above a set threshold? Not Sure. Recognise that Section 106 was slow and complicated through viability assessments, negotiations with sometimes many recipients needing to agree and sign. For different issues, some developers may not have an urgency to sign and complete agreement. A levy would be simpler and would apply to all scales and types of development. However express concerns over:

- who sets the threshold and how often it's reviewed
- at what level it was set
- who establishes changes in land value
- what will happen with low value areas

Clarification was required on most of the details and regulations.

Note need to retain s106 for other purposes.

Concern that lower value areas will not achieve funds to deliver infrastructure/affordable housing if thresholds were set incorrectly.

Section 106 delays often not responsibility of LPA.

Practicalities plus administrative burden for small authorities.

22(b). Should the Infrastructure Levy rates be set nationally at a single rate, set nationally at an area-specific rate, or set locally? Not sure. Should probably be set locally as if it's set nationally, there was no local control or influence. It's unclear at what scale an area-specific rate would be set e.g. regional, sub-regional, county, district, housing market area. There were big differences in viability across a small area. If it's set locally, we may need to commission viability assessments and may need examination or accordance with regulations to agree them. Concerns over impact on regeneration / schemes with abnormalities if floor set incorrectly

22(c). Should the Infrastructure Levy aim to capture the same amount of value overall, or more value, to support greater investment in infrastructure, affordable housing and local communities? More value.

There was currently inadequate infrastructure delivery, ideally more but need to be mindful of deliverability and need for sufficient value to make attractive to land owner, particularly in low value areas.

22(d). Should we allow local authorities to borrow against the Infrastructure Levy, to support infrastructure delivery in their area? Yes. Support the ability to borrow against the Infrastructure Levy to forward fund it but not a requirement to do so. Developers should fully fund infrastructure requirements. Risks for any councils

that borrows against future receipts and there is no certainty of when homes will be occupied and when funds will be collected.

23. Do you agree that the scope of the reformed Infrastructure Levy should capture changes of use through permitted development rights? Yes. There were many prior approvals existing and more proposed. Suggest that self-build and custom-build homes should not be exempt as they were under CIL regulations. Such development still puts a strain on local infrastructure. Practicalities and clarification on how it would be administered and enforced. Would it undermine some of the principles of what PD intended to achieve – i.e. quicker , simpler?

24(a). Do you agree that we should aim to secure at least the same amount of affordable housing under the Infrastructure Levy, and as much on-site affordable provision, as at present? Yes, but should be locally set and the mix of sizes and tenures rioritised locally on the basis of need.

24(b). Should affordable housing be secured as in-kind payment towards the Infrastructure Levy, or as a 'right to purchase' at discounted rates for local authorities? Support In principle the right to purchase affordable housing from developers i.e. guaranteed provision on site. Delivery on site was an in-kind payment in lieu of levy contributions. The difference between the price it was sold to the Registered Provider (RP) and open market price would be offset from the final cash liability to the levy. Unclear what discounted rates were proposed. Alternative was 'first refusal' right for LAs (or RPs) to buy up to a set proportion of onsite units. How do you secure it in perpetuity? Need to retain section 106 mechanisms. May wish for different proportions in different value areas? Hybrid – in-kind first, but with option to buy more.

24(c). If an in-kind delivery approach is taken, should we mitigate against local authority overpayment risk? Not sure. Advised that if cost of in-kind provision is greater than the final levy liability then the developer had no rights to reclaim overpayments. Unclear what happens to rural exception sites. Likely overpayment but then no levy towards education and POS etc. Need clarification whether they should be exempt from levy?

24(d). If an in-kind delivery approach is taken, are there additional steps that would need to be taken to support affordable housing quality? Yes. Currently if homes are not of sufficient quality (or wrong type), developers were unable to sell them to RPs. To ensure developers were not rewarded for low-standard homes, Local Authorities have option to revert back to cash contributions if RPs unwilling to buy homes. Suggest all homes were built to meet national standards (quality and size) so appropriate for use as affordable homes. Also sizes of homes reflect local needs.

25. Should local authorities have fewer restrictions over how they spend the Infrastructure Levy? Not Sure. Unclear what restrictions were envisaged i.e. those for CIL? Says flexibility for levy collected once core infrastructure obligations met but unlikely to receive enough levy to meet all core infrastructure obligations. Levy should be collected and spent to deliver affordable housing and key

infrastructure. Inappropriate to use for other purposes such as funding planning department or reducing council tax.

RESOLVED that it being 1.00 p.m. that the meeting continue in order for the remaining business to be transacted.

25(a). If yes, should an affordable housing 'ring-fence' be developed? Not Sure. Levy was calculated based on increase in land value. There is not a specified amount collected for affordable housing so unclear what proportion could or should be ring-fenced. Affordable Housing would be high priority but so will other key infrastructure. Individual Authorities should be able to decide how to divide the Infrastructure Levy based on priorities.

26. Do you have any views on the potential impact of the proposals raised in this consultation on people with protected characteristics as defined in section 149 of the Equality Act 2010? No. Provision of public transport, health facilities and employment opportunities would mitigate against protected characteristics need to be taken into account.

RESOLVED that the views of the Committee form the basis of the Council's response to the Planning for the Future White Paper and that the final wording of the consultation response be delegated to the Head of Place in consultation with the Leader and Lead Member for Economic Development and Planning Policy.

Chair

The meeting ended at 1.07 pm

NOTE: These minutes will be confirmed as a correct record at the next meeting of the Committee.

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