

Report to the LDF Cabinet

Report reference: LDF-017-2010/11

Date of meeting: 7 February 2011



**Epping Forest
District Council**

Portfolio: Leader

Subject: Potential Impact of Pending Changes to the Planning System on Progress with the Core Planning Strategy

Responsible Officer: Ian White (01992 564119).

Democratic Services Officer: Gary Woodhall (01992 564470).

Recommendations/Decisions Required:

(1) To note the pending legislative changes to the national planning system currently being introduced by Central Government;

(2) To consider the potential impact of the proposed changes on the ability and capacity of the Council's Forward Planning team to progress the preparation of the Core Planning Strategy, by virtue of:

(a) the effect of the pending abolition of the East of England Plan and its housing and employment land targets, particularly with regard to neighbouring authorities' positions with respect to Harlow expansion;

(b) the need for an enhanced level of joint working at a strategic level to maximise the economic development and regeneration opportunities presented by the Essex/Kent/East Sussex Local Enterprise Partnership and the emerging West Essex Alliance;

(c) the timing of the Community Infrastructure Levy; and

(d) the potential implications of Neighbourhood Plans and the requirement to support local communities in their preparation; and

(3) In view of the above, to consider the proposal by officers to improve communication by way of e-mail and circulation of working drafts, supplemented by additional informal meetings of the Cabinet Committee, to keep Members abreast of progress towards the preparation of the Issues and Options Consultation document, within the changing planning context.

Executive Summary:

The report summarises current proposed changes to the planning system and discusses them in the context of the timetable for preparing the Core Planning Strategy and the current staffing level of the Forward Planning team.

Reasons for Proposed Decision:

To update Members on the Government's proposals to amend the planning system and to continue a dialogue to enable officers to prioritise key items of work as required.

Other Options for Action:

To deal with changes to the Planning system only as and when they are brought into force

Report:

The Core Planning Strategy and Reform of the Development Planning System

1. The preparation of a sound Core Planning Strategy (CPS) is one of the Council's current Key Objectives. Community visioning consultation was carried out between November 2010 and January 2011, and it is intended that Issues and Options consultation for the CPS will go ahead in summer 2011. The current timetable anticipates adoption of the CPS by spring 2014, involving a Preferred Options consultation and draft and final submissions of the Strategy.

2. This work is proceeding while the Government is introducing significant changes to the development planning system. These include:

(a) abolition of Regional Spatial Strategies and their related housing and employment land targets;

(b) introduction of the New Homes Bonus to stimulate housebuilding – Government consultation on this was reported to Planning Services Scrutiny on 2 December 2010 and Council on 14 December; and

(c) various measures in the Localism Bill which are outlined in paras 4 - 8 below.

3. Relatively few details have emerged about these and the timetable for their introduction is also unknown at present.

4. There will be a new right for communities to draw up "neighbourhood development plans" and to grant full or outline permission in areas where they most want to see new homes and businesses. Local planning authorities will be required to provide technical advice and support as neighbourhoods draw up their plans. Neighbourhoods could be at the level of parish councils or more localised forums. Provided that a neighbourhood plan is in line with national planning policy, the strategic vision for the wider area set by the local authority in the CPS and "other legal requirements", local people will be able to vote on it in a referendum. If the plan is approved by a majority, then the local authority will bring it into force.

5. The Localism Bill also introduces the community right to build, ie as part of neighbourhood planning, groups of local people will have the power to bring forward small developments such as new homes, businesses and shops, without the need to apply for planning permission. It is intended that the benefits of these developments (eg profits from letting the homes), will stay within the local community. Earlier advice from the Government indicates that this right is intended to tackle "the lack of development coming forward in rural areas where local planning authorities are resistant to development and consequently restrict expansion despite communities themselves expressing a wish to see new housing and other facilities built."

6. The Bill proposes three changes to the Community Infrastructure Levy – this being a

charge developers can be required to pay for new developments and intended to support new infrastructure such as roads and schools. The Government intends to bring these changes into effect by 6 April 2011, and will mean:

- (a) the money raised can be spent on maintaining, as well as building, infrastructure;
- (b) local authorities will have greater freedom to set levy rates appropriate to their areas; and
- (c) the Government will have the power to require that some of the money raised goes directly to the neighbourhoods where development takes place.

7. One of the key aims of the Bill is to give local authorities “greater freedom to get on with (plan-making) without undue interference from central government.” The Bill therefore limits the discretion of planning inspectors to insert their own wording into local plans, but it will still only be possible to adopt plans judged “sound” by inspectors. The Bill will also ensure that, rather than focusing on reporting plans’ progress to central Government, authorities should focus on reporting progress to local communities.

8. The Bill introduces a “duty to co-operate” for local authorities and other public bodies to ensure that they work together on planning issues which may cross administrative boundaries or which reflect genuine shared interests and opportunities to make common cause. Members will be aware of the co-operative work at officer level involving the three district councils, two county councils, and various statutory undertakers and other public agencies, concerning preparation of the Harlow Options Appraisal and other evidence base documents.

Implications of the Reforms

- Regional Spatial Strategies

9. The pending abolition of the East of England Plan (EEP) and its housing and employment land targets immediately introduces fundamental questions about Harlow expansion, the impact on adjoining authorities, the need for continued co-ordinated working and how this council is to produce reasonable growth alternatives for public consideration to satisfy PPS12 and the requirements of Strategic Environmental Assessment (SEA). Officers are also aware that an application for the “West Sumners” development may be submitted in the autumn which could comprise 1200 houses.

10. East Herts consulted on its Issues and Options from September to November 2010 (reported to the Planning Scrutiny Panel on 11 October 2010). This included the Harlow North option as identified in the Options Appraisal. It is very unlikely that there will be any local political support for this expansion, and to date, it has not proved possible to involve East Herts Members in co-ordinated discussions about the town’s growth. If Harlow North is no longer considered a viable option, this is likely to influence this Council’s views about urban extensions in this District.

11. Harlow consulted on its Issues and Options (from November 2010 to January this year) and this was reported to the Planning Scrutiny Panel on 10 January 2010. In essence, the consultation was only about one growth option – the 16,000 figure from the EEP, with the options for spatial distribution from the Options Appraisal being re-run. Officers believe that Harlow will have to reconsider this approach, given the pending abolition of the regional targets, the lack of support from East Herts, and the need to consider other growth options as required by PPS12 and SEA.

12. The housing waiting list is now close to 5,000 and there is an on-going and growing need for affordable housing. Officers are considering the following alternatives for the CPS Issues and Options consultation to replace the EEP target:

- (a) nil growth;
- (b) accommodating natural growth in the local population (which assumes nil net migration);
- (c) meeting known housing demand – ie the waiting list and affordable housing figures projected forward to 2031;
- (d) utilising the most recent population projections published by the Government; and
- (e) projecting previous building rates forward to 2031 – this was the favoured option being promoted in the review of the EEP, but this work has been abandoned.

13. Of these options, (a) would obviously give the lowest figure while (c) and (d) would be the largest. The EEP review figure was for 3,200 additional houses in the period 2011 – 2031.

14. These options do not take account of Harlow's potential growth, including urban extensions into this district. If such provision still needs to be made, this would now count towards the council's housebuilding figures and would affect the five options outlined above. Members are therefore asked to consider the need for continued co-operative working with Harlow Council in the light of:

- (a) the pending abolition of the EEP targets;
- (b) the continuing lack of interest being shown by East Herts Members in any form of co-ordinated working;
- (c) the related increasing likelihood that Harlow North will be rejected as a growth option;
- (d) the fact that Harlow is still proceeding with the EEP target of 16,000 houses which would require urban extensions in this District; and
- (e) the duty to co-operate provision of the Localism Bill.

- New Homes Bonus

15. The Council expressed a "cautious welcome" for the scheme on 14 December 2010, but also listed a number of reservations. These included:

- (a) how incentivisation for house-building will sit with the overarching aim of Green Belt policy to restrain growth, probably intensified by the localism agenda and the need for this Council to reflect more openly the views of the local community;
- (b) the need for further Government regulation explaining how and when the Bonus can be taken into account in making decisions on planning applications;
- (c) potential pressure for boundary reviews by Harlow Council given its relatively limited land supply for future housing;
- (d) potential pressure from Harlow to claim the Bonus if boundaries are changed

pursuant to the development of urban extensions; and

(e) the time lag for the adoption of this Council's Core Strategy (2014), with the identification of specific sites not occurring until the adoption of subsequent Development Plan Documents in 2015 or 2016.

- Neighbourhood Plans and Community Right to Build

16. Officers consider that there is insufficient detail in the Localism Bill to assess fully the implications of these measures for preparation of the CPS. The principle of the Plans themselves would appear to be a way to regularise and bring a degree of consistency to Parish Plans and Design Statements, and to give them a statutory standing. With 24 parishes in the district, and with an unknowable number of neighbourhood groups, the potential implications for the workload of the Forward Planning team could be huge. While the Bill does indicate that they will have to be in line with national policy guidance, and the "strategic vision" of the local authority, this does not mean that preparation of the neighbourhood plans will await the adoption of the higher-level guidance and plans. This could mean that the "technical advice and support" will be required for a large number of these plans while the team, currently two members of staff short, is preparing the CPS.

17. Much more information is needed about the right to build, particularly as this seems to be aimed primarily at rural areas, and how this will relate to restraint of growth in the Green Belt. There are checks and balances including the need for a majority vote in a referendum, but it is not clear to officers who will be responsible for funding and running such events. There is potential here for challenges about inconsistency in applying Green Belt policies, and implications for the distribution strategies of whatever new housing targets are agreed for the CPS.

- Community Infrastructure Levy (CIL)

18. Regulations which came into force in April 2010 require local authorities to have a levy (ie a tariff on all new housing and on commercial building based on floorspace) in place by April 2014. It is advisable to meet this deadline because after that time, authorities will be more restricted in what they can ask for in Section 106 Agreements. The Government sees CIL as the proper way to seek contributions from developers to fund local infrastructure requirements, and is therefore limiting the scope of planning obligations to encourage the use of the levy. The changes proposed in the Localism Bill will mean that authorities can set their own rates, subject no doubt to more strategic limits, and to use the money for maintenance as well as provision, and the Government will ensure that at least some of the levy is spent in the locality of the development. Officers believe these are all sensible amendments to the initial legislation. The real problem with the levy, from this Council's point of view, is the deadline for its introduction. It ought to be based on an analysis of housing and employment land targets, and of the distribution of such developments and the local infrastructure needs which may be generated. The projected dates for the adoption of the CPS could mean that these issues are still being finalised by the time the deadline is reached.

19. The issue is made more complex in this district if urban extensions to Harlow are included as part of the CPS. The town already has significant infrastructure requirements which will only increase with the needs of new development, so that its levy rate is likely to be very different from the one eventually agreed for this district. It may therefore be the case that this Council will have to set two levy rates, one to deal with any urban extensions to Harlow, and the other to address the infrastructure needs of the rest of this district. If this is the case, then it will obviously be necessary to have joint working on the CIL which applies to the urban extensions, which may lead to complications and delays.

- Limiting the discretion of Planning Inspectors

20. Officers welcome the proposed changes as they should mean that adopted plans reflect more accurately the views of the local community rather than central government. This should speed up the process of adopting a Core Strategy, although officers are aware that all the tests of soundness still need to be satisfied.

- Duty to co-operate

21. This is briefly mentioned above. Officers view this as a normal part of their everyday activities, particularly when cross-boundary issues are being considered. Co-operative work resulted in the Harlow Options Appraisal, and other examples also include the Strategic Housing Market Assessment (SHMA).

- Local Enterprise Partnerships

22. The formation of the Greater Essex, Kent and East Sussex Local Enterprise Partnership (LEP) and the West Essex Alliance LEP sub-group adds another dimension to the work currently being addressed by officers. The exact role and influence of LEPs on planning remains uncertain. Their role in distributing the Regional Growth Fund is key although the mechanisms for objectively identifying priorities within the wider area of the LEP is not entirely clear. In addition to this, the County Council through the Essex Chief Executives' Association, has prepared an Integrated County Strategy (ICS). The main aim of the document is to identify priorities for regeneration and economic growth within Essex and for this to feed into the LEP's consideration of Regional Growth Fund bids, although details of how this will work are not clear at present. The ICS also makes very little reference to a strategic approach for delivering joint growth objectives where they are still currently under discussion.

23. Officers feel that, in view of the wider localism agenda and existing PPS12 requirements, this Council's priorities should continue to be identified on the basis of local steer from Members, and from the outcomes of the consultation on the Issues and Options for the Core Planning Strategy. The need for evidence-supported growth options that will also underpin and guide the requirement for supporting infrastructure clearly remains central to the process. This approach, which follows a structured sequential process in line with Government requirements, will promote the district's priorities and further inform West Essex Alliance outputs.

- Informal communication and meetings with LDF Cabinet Members

24. Officers would like to keep Members more regularly up to date on progress with the preparation of the Issues and Options consultation document. They would therefore welcome Members' views on receiving working drafts of the document by e-mail with the opportunity to comment throughout the period of preparation and on the suggestion for informal meetings of the Cabinet Committee to discuss content and to guide officers.

Resource Implications:

It is likely that additional support for local communities as a result of the Localism Bill, and other policy work, will be needed as a result of the pending changes to the planning system. The likelihood is that this additional work will be required in tandem with the preparation of the Core Planning Strategy. This could impact quite severely on the Forward Planning team which is currently carrying a vacant post.

Legal and Governance Implications:

The Council is required to pay attention to changing Government guidance and to implement new planning legislation as it emerges. The current overarching requirement is to continue to prepare and deliver the Council's Local Development Framework.

Safer, Cleaner and Greener Implications:

No direct implications at this stage.

Consultation Undertaken:

Discussions within the Directorate and with the Acting Chief Executive.

Background Papers:

- Localism and Decentralisation Bill
- Draft ICS
- New Homes Bonus consultation document
- PPS12
- CIL Regulations

Impact Assessments:

Risk Management

Because of current vacant posts, there is a significant risk of not being able to deliver the Core Planning Strategy and other LDF documents in a timely fashion. The amount of work associated with the pending changes to the planning system could, in the current circumstance, add considerably to the workload of the Forward Planning team.

The ultimate risk is that a robust LDF is not delivered which could mean that bidding opportunities for the RGF and other funding initiatives to address growth, regeneration and enhancement priorities will be missed.

Equality and Diversity:

Did the initial assessment of the proposals contained in this report for relevance to the Council's general equality duties, reveal any potentially adverse equality implications? No

Where equality implications were identified through the initial assessment process, has a formal Equality Impact Assessment been undertaken? N/A

What equality implications were identified through the Equality Impact Assessment process?
N/A.

How have the equality implications identified through the Equality Impact Assessment been addressed in this report in order to avoid discrimination against any particular group?
N/A.