



Strategic Transport Forum

11th September 2020

Agenda Item 6: Planning White Paper: Infrastructure Delivery

Recommendation:

It is recommended that the Forum:

- a) Consider the implications for the planning, development and delivery of strategic infrastructure arising as a consequence of the proposals set out in the Planning White Paper**
- b) Provide a steer on the key themes that should form the basis for a response from England's Economic Heartland to the Planning White Paper consultation.**

1. Context

- 1.1. Forum Members will be aware that the Government published its Planning White Paper ([Planning for the Future](#)) on 6th August 2020.
- 1.2. The primary focus of the White Paper is the Government's proposed changes to the Local Plan system in England. Whilst it is not appropriate for EEH to comment on the changes to the Local Plan system itself, there are implications arising from them that are relevant for the planning, development and delivery of strategic infrastructure.
- 1.3. The Government has invited comments on its proposals by 29th October. It is proposed that EEH's position on the White Paper be considered by the Strategic Transport Forum as well as the EEH Leaders group (25th September).
- 1.4. The purpose of this paper is to seek the Forum's views on the key approach to be adopted for the response, and to seek comments on the content of the response.

2. Overview

- 2.1. The White Paper sets out a new vision for England's planning system. It cites five themes as underpinning the Government's approach to reforming the planning system:
 - i) Firstly, (the Government) will streamline the planning process with more democracy taking place more effectively at the plan-making stage, and will replace the entire corpus of plan-making law to achieve this;
 - ii) Secondly (the Government) will take a radical, digital-first approach to modernise the planning processes. This means moving from a process based on documents to a process driven by data;
 - iii) Thirdly, to bring a new focus on design and sustainability;

- iv) Fourthly, (the Government) will improve infrastructure delivery in all parts of the country and ensure developers play their part, through reforms of developer contributions;
- v) Fifthly, to ensure more land is available for the homes and development people and communities need and to support renewal of our town and city centres.

2.2. The White Paper presents its proposals in more detail using three pillars:

- Pillar One – Planning for development
- Pillar Two – Planning for beautiful and sustainable places
- Pillar Three – Planning for infrastructure and connected places

2.3. At the heart of the Government's reforms is the proposal for all areas of land to be put into one of three categories:

- Growth Areas suitable for substantial development – sites annotated in the Local Plan in this way would have outline approval for development
- Renewal Areas suitable for development – there would be a statutory presumption in favour of development being granted for the uses identified in the Local Plan as being suitable for such areas
- Areas that are protected – this would include sites and areas which, as a result of their particular environmental and/or cultural characteristics would justify more stringent development controls to ensure sustainability

2.4. The White Paper identifies a couple of alternative approaches to the above categorisation, namely:

- a) Combining the Growth and Renewal areas (as defined above) into a single category and to extend permission in principle to all land within the designated area, based on the uses and forms of development specified for each sub-area within it;
- b) Limit automatic permission in principle to land identified for substantial development in Local Plans (Growth areas): other areas of land would, as at present, be identified for different forms of development in ways determined by the local planning authority.

2.5. From an infrastructure perspective there are a number of points associated with the proposals that it is useful to be aware of:

- Local Plans will be required to identify a range of development needs for a minimum of 10 years
- A standard method for establishing housing requirements will be established, with the figure calculated for each area becoming a binding requirement that the local planning authority must accommodate
- Local Plans should be informed by appropriate infrastructure planning, and sites should not be included in the plan where there is no reasonable prospect of any infrastructure that may be needed coming forward within the plan period.
- The current Sustainability Appraisal system will be abolished and replaced by a simplified process for assessing the environmental impact of plans, which would continue to satisfy the requirements of UK and international law and treaties
- The Duty to Cooperate test will be removed, although the White Paper identifies the need for further consideration to be given to the way in which strategic cross-boundary issues, such as major infrastructure or strategic sites, can be adequately planned for, including the scale at which plans are best prepared in areas with significant strategic challenges

- A slimmed down assessment of deliverability for the plan would be incorporated into the 'sustainable development' test.

3. Our Response

- 3.1. The Government is seeking views on its proposals: to this it has included 26 questions.
- 3.2. The focus of EEH's response will be in relation to the consequences of the changes (as opposed to being focused on the proposals themselves). Therefore, following discussions with EEH Transport Officer Group, EEH Business Unit's intention is to prepare a submission that responds only to those questions within the Government consultation that are relevant to strategic infrastructure. This will be supported by a more detailed written submission. Adopting this approach allows us to respond to specific questions while at the same time bringing together the points set out in Annex 1.

4. Consideration

- 4.1. The thrust of the Government's changes to the Local Plan system can be summarised as seeking to simplify the process, accelerate decision making, and deliver planned growth on the ground.
- 4.2. What the changes to the plan making system serve to emphasise is the critical need of ensuring that our approach to the planning, development and delivery of infrastructure is similarly revised.
- 4.3. Whilst the Planning White Paper considers the issue of developer contributions there are wider issues in relation to infrastructure that are not considered. If the ambition set out in the White Paper is to be realised then it will be necessary for those issues to be addressed in parallel. It is proposed that the EEH response to the White Paper focuses on these.
- 4.4. It is easiest to consider the infrastructure issues under four broad headings:
 - i) Strategic Transport Infrastructure – the investment programmes of national infrastructure owners that sit within the public sector – e.g. the Highways England Road Investment Strategy and Network Rail's Rail Network Enhancement Programme (RNEP)
 - ii) Major Road Network – the five-year investment programme introduced through which investment in local authority owned roads forming the MRN is managed
 - iii) Wider Strategic Infrastructure – the investment programmes of infrastructure owners companies that predominantly sit within the private sector but which are overseen by independent economic regulators - including investment in digital infrastructure (both fixed and mobile) and utilities.
 - iv) Other Local Infrastructure – here the issue to be considered is the extent to which the changes to the system of developer contributions impacts on the ability of local communities to secure the funding required to offset the impact of a development
- 4.5. What flows quickly from a cursory consideration of our current system for planning, developing and delivering strategic infrastructure is:
 - a) Given that development sites within Growth Areas will have outline planning approval, and those in Renewal Areas will have a presumption in favour of development, it will be essential that the investment programmes of infrastructure owners (both public and private sector) deliver enabling infrastructure in a timely manner
 - b) In this context the development of the Investment Pipeline at the regional level becomes pivotal in providing clarity as to infrastructure priorities, and ensuring the alignment of priorities across sectors to achieve an agreed outcome

In taking forward its proposals to reform the plan making process the Government must give further consideration as to how the implications of different land use proposals impact on infrastructure requirements – e.g. the infrastructure requirements associated with an industrial development will be different to those for a housing development

- c) The development of the Investment Pipeline should take place within a 10-year financial envelope for public sector investment in strategic infrastructure to ensure that it is affordable: the financial envelope should take the form of a commitment by Government to a 5-year funding settlement for the region, with an indicative settlement for years 5-10
 - d) The inclusion of specific proposals within the Investment Pipeline should be sufficient to establish 'the need' for the proposal: the Government should commit to simplifying the approval processes required to enable a proposal that is included in the Investment Pipeline to secure the consents required to enable its delivery
 - e) The Government should commit to placing a requirement on independent regulators to take into account the Investment Pipeline when determining future investment programmes for privately owned strategic infrastructure (e.g. utilities)
 - f) By developing the Investment Pipeline within a financial envelope agreed with Government the region's partners would be able to allocate the resources (staff and revenue funding) required to develop specific proposals with greater certainty and confidence: with 'the need' for the proposal established by its inclusion within the Investment Pipeline the development phase is simplified and risks to delivery minimised
 - g) Following the proposed removal of the Duty to Cooperate test, the White Paper acknowledges the need for further consideration to the way in which strategic cross-boundary issues, such as major infrastructure or strategic sites, can be adequately planned for. However, the Government cannot delay consideration of these issues.
 - h) The Government should commit to extending the processes that apply to the planning and delivery of Nationally Significant Infrastructure Projects to proposals that are identified in the Investment Pipeline: this would increase confidence that enabling strategic infrastructure will be delivered in a timely manner
- 4.6. Forum Members will be aware of the added benefit that securing statutory status for England's Economic Heartland and its activities is that it would give added weight to the Investment Pipeline and thereby making a number of the above steps easier to implement.
- 4.7. The work that EEH has taken forward to develop a regional capacity/capability that supports individual partners as they bring forward the development of specific proposals is complementary to the considerations set out above.
- 4.8. Whilst the focus of EEH is on issues relating to strategic infrastructure it is also appropriate to consider the implications of the Planning White Paper proposal on the planning and delivery of local infrastructure that is funded either wholly or in part through developer contributions.
- 4.9. Any consideration of such issues needs to take place within an understanding of the current situation, namely:
- There is insufficient 'value' within the current planning system to enable local authorities to secure the funding required to offset the impact of development – in terms of affordable housing, local transport infrastructure, educational requirements, social and environmental infrastructure

- This inherent tension in the system is a key factor as to why negotiations relating to developer contributions (via S106) are often protracted
- This tension is also present in those locations where the Community Infrastructure Levy has been introduced: the Levy being set at what the market can 'afford' to pay as opposed to what is required to offset the impact of planned growth

4.10. The challenge that flows from understanding this context in relation to the proposals set out within the Planning White Paper includes:

- a) Linking the payment of a reformed Community Infrastructure Levy to a fixed proportion of the development value is likely to perpetuate the situation wherein the financial contribution that can be secured will not be sufficient to cover the cost of the infrastructure required to mitigate its impact: this reflects the reality that the 'value' associated with a particular development proposal is often established via 'options' negotiated between land owner and potential developers.

With the value of such 'options' effectively baked into the balance sheet of developers, the benefit of any changes to the way in which the value is captured by the planning system will only be realised in the medium to long term
- b) Experience shows that pressure on developer contributions often results in the local authority having to compromise on the provision of affordable housing: unless the proposed changes to the Community Infrastructure Levy significantly increase the value generated by a specific proposal those pressures will continue to exist

5. Next Steps

- 5.1. The meeting is invited to comment on both the issues raised in Section 4 of this paper and the resultant key themes for inclusion in EEH's response, as set out in Annex 1.
- 5.2. A draft response to the Planning White Paper will be considered by EEH Leaders at their meeting on 25th September.

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September 2020

Key Themes for inclusion in EEH's Response to the Planning White Paper

1. Planning Strategic Transport Infrastructure

In the context of strategic infrastructure, the current experience of the English Planning System is complicated, time-consuming and uncertain.

Given the significance of ensuring that development is supported by the delivery of enabling infrastructure in a timely manner it is essential that proposed reforms for Local Plans applied to the planning system are complemented by a similar set of reforms to the system for planning and delivering strategic infrastructure.

The work of the Sub-national Transport Bodies includes consideration of strategic, cross boundary, infrastructure issues. The Investment Pipeline created to support a sub-regional Transport Strategy provides an evidence based, partner-led proposition that can form the basis of a reform proposal for the planning and delivering strategic transport infrastructure.

The Investment Pipeline has been developed having worked with our partners to consider the implications of planned economic and housing growth. In addition, our work taking forward a programme of connectivity studies provides the mechanism for working with our partners to consider strategic infrastructure requirements arising from consideration of growth scenarios beyond the current Local Plan horizon.

In addition, as the Sub-national Transport Body for the region, EEH also plays a key role in influencing strategic infrastructure proposals that are determined by national agencies, including those that form part of national investment programmes such as Highways England's Road Investment Strategy and Network Rail Long Term Planning Process. By working with Sub National Transport bodies, the mechanism for ensuring that development is supported by the delivery of enabling infrastructure in a timely manner is established and can be developed to accommodate the new reforms proposed.

2. Strategic Infrastructure – Funding

Whilst the Planning White Paper considers the issue of developer contributions, there are wider issues in relation to infrastructure that are not considered. If the ambition set out in the White Paper is to be realised then it will be necessary to ensure strategic infrastructure is properly planned and implemented from the outset, exploring and aligning funding regimes to make this achievable.

In this context the development of an Investment Pipeline at the regional level becomes pivotal in providing clarity as to infrastructure priorities, and ensuring the alignment of priorities across sectors.

The development of the Investment Pipeline should take place within a 10-year financial envelope for public sector investment in strategic infrastructure to ensure that it is affordable and aligned to the proposed 10 year land supply requirements set out in the Planning White Paper. The financial envelope should take the form of a commitment by Government to a 5-year funding settlement for the region, with an indicative settlement for years 5-10.

By developing the Investment Pipeline within a financial envelope agreed with Government, regional partners will be better able to allocate the resources (staff and revenue funding) required to develop specific proposals with greater certainty and confidence: with 'the need' for the proposal established by its inclusion within the Investment Pipeline the development phase is simplified and risks to delivery minimised.

Following agreement of an Investment Pipeline, the Government should commit to simplifying the approval processes required to ensure that a proposal included in the Investment Pipeline can proceed to delivery with a clear, fast, and reliable consents process.

In addition, the Government should commit to placing a requirement on independent regulators to take into account the Investment Pipeline when determining future investment programmes for privately owned strategic infrastructure (e.g. utilities).

3. Funding for Local Infrastructure Needs

The proposal set out in the Planning White Paper to simplify the regime for securing developer contributions is supported. However, the proposal to charge it as a fixed proportion of development value above a set threshold will not address the fundamental issue – namely the value that is already embedded in a system, which reflects ‘options’ secured on land upstream of the development process. That value is reflected in the balance sheets of potential developers and it is therefore difficult to see how the proposed change will secure the value required to mitigate the impact of development in the short/medium term.

As a result, any Infrastructure Levy rate should be set at a rate specific to that area, which reflects the level of infrastructure required to mitigate the impact of proposed development – this will in turn be a function of the scale of the infrastructure required and the cost of providing it: both are functions specific to an area and should be evaluated as such.

A proposed infrastructure levy has to capture greater investment in infrastructure in order to mitigate the impact of planned development – experience shows that because the ‘value’ available is determined upstream in the development process (at the ‘options’ stage): the current system is not able to secure the contribution that is justified in order to mitigate the impact of planned development (i.e. there is a shortfall in funding secured). Given the extent to which options already exist for land identified for development in Local Plans addressing this particular issue will take time.

4. Wider implications of Land Use Planning Decisions

In taking forward its proposals to reform the plan making process the Government must give further consideration as to how the implications of different land use proposals impact on infrastructure requirements – e.g. the infrastructure requirements associated with an industrial development will be different to those for a housing development.

England’s Economic Heartland welcomes the White Paper’s commitment to urban design and an ambition to setting design standards. However, the proposal must go beyond just housing design to instead focus on large scale, potentially to regional level, master planning. Adopting a strategic approach to master planning will ensure people and businesses are able to live and work in environments that put sustainability at their core.

5. Establishing and enabling growth

Proposals for enabling development in growth areas or renewal areas should only be taken forward if there are commitments made by Government to ensure the planning, development and delivery of enabling strategic infrastructure to support such growth is simplified and accelerated.

It is important to acknowledge that use of a standard method for establishing housing requirements is likely to perpetuate existing patterns of development: it is also likely to perpetuate the situation where it is assumed that realising economic growth is dependent upon improved physical connectivity. While this has historically been a viable justification, increased use of remote/flexible working in significant parts of the economy serves to emphasise the opportunity for economic growth to be decoupled from growth in movement. Breaking this link is essential if the UK is to meet its obligations to achieve net zero carbon emissions no later than 2050.

There are wider opportunities for the economy and the distribution of growth arising from the enablement of a remote/flexible work space that need to be reflected in policy choices taken at the national level: the use of a standard method might inadvertently preclude such opportunities being realised. As such digital infrastructure should be seen as a core part of infrastructure planning.

6. Use of the Nationally Significant Infrastructure Projects regime

The proposal to make better use of the Nationally Significant Infrastructure Projects Regime is to be welcomed. However, the Government should commit to extending the processes that apply to the planning and delivery of Nationally Significant Infrastructure Projects to proposals that are identified in a region's Investment Pipeline: this would increase confidence that enabling strategic infrastructure will be delivered in a timely manner and with the right level of certainty.

7. Duty to Cooperate Requirements

The White Paper acknowledges the need for further consideration to the way in which strategic cross-boundary issues, such as major infrastructure or strategic sites, can be adequately planned for. However, the Government cannot delay consideration of these issues. Infrastructure planning should be at the forefront of land use planning decisions to ensure the infrastructure necessary to support sustainable development is deliverable and affordable. Regional bodies, such as Sub National Transport Bodies, play a key role in aligning infrastructure and land use planning across boundaries and their role in enabling sustainable growth should be more clearly defined with the Government's proposals

8. Supporting decarbonisation and wider sustainability priorities

Through its Transport Strategy (published for consultation in July 2020), England's Economic Heartland has set out a clear framework for transport decarbonisation at a regional scale in the Heartland.

Following evidence provided by the Universities of Oxford and Southampton, the EEH preferred pathways to decarbonisation are a combination of approaches that together demonstrate the greatest likely environmental and economic benefits for the region. A 'highly connected' pathway (deployment of super-fast digital connectivity, better traffic management information and rapid deployment of CAVs) coupled with a 'behaviour shift/ policy led pathway' (encouraging people to use public transport and active travel) will together support the region to achieve its decarbonisation ambitions.

Achieving these pathways is not just a transport policy issue, it requires a shared approach between industry, different sectors, such as the rail and digital sectors and, significantly, aligning decision making: including land use planning.

The proposals set out in the White Paper need to ensure that the scale and distribution of development contributes to achieving the legal requirement to achieve net zero carbon emissions no later than 2050 by reducing the reliance on private car and inefficient local freight deliveries and instead focuses on creating sustainable communities.