Written evidence submitted by Daventry District Council [FPS 011]

Introduction

Daventry District Council (the 'Council') welcomes the opportunity to provide evidence to the Select Committee on this enquiry. The planning system is a very important topic for the lives of everyone living in England and therefore it is important that good decisions are made on its future.

The Council submitted a response to the MHCLG consultation on the Planning for the Future White Paper, a copy of which is appended. In response to the questions asked by the Committee cross-references are made to responses to response to the White Paper consultation questions as appropriate.

Responses to specific questions

Is the current planning system working as it should do? What changes might need to be made? Are the Government's proposals the right approach?

The Council's response may fairly be summed up by saying that the objectives set out in the White Paper are welcome, but the proposals to achieve them are not, in the Council's view, likely to achieve those objectives. The proposals around the use of information technology are generally supported, but with the important caveat that such systems have a history of being harder to get right, and slower to implement, than their proponents hope; and the need to ensure people are not disenfranchised. However, many of the other proposals do not appear to be well thought-through.

The Council's responses identify potential means of improving the delivery of sustainable development, particularly as follows:

- Q7(a): Support for the new 'sustainable development' test.
- Q7(b): Support for a new mechanism for larger-than-local strategic planning, to replace the duty to co-operate.
- Q10: Proposing a new, unified 'development permission' regime to replace the current mix of planning permission, listed building consent, development consent, Transport and Works Act orders and prior approval. Such a system would empower councils to give the full 'bundle' of permissions currently granted by development consent orders, with appropriate safeguards.
- Q22(d): Supporting local authorities being able to borrow against future levy income (whether this be CIL or a new or reformed levy).

In seeking to build 300,000 homes a year, is the greatest obstacle the planning system or the subsequent build-out of properties with permission?

The Council's view, as set out in the responses to question 14, is that build-out of developments with permission is the main issue which needs to be tackled. As Sir Oliver Letwin's review identified, it is the market absorption rate which in practice inhibits faster housing delivery. The planning system has little to do with this. That said, it is always

possible to make improvements to the planning – as with any – system and the Council's other responses identify ways this could be done.

How can the planning system ensure that buildings are beautiful and fit for purpose?

As set out in response to various questions, achieving beautiful and fit-for-purpose development requires a combination of things:

- Q6: Ensuring development management policies can still, as necessary, be set locally.
- Q9(c): Resisting any move to approve housing schemes via the Development Consent Order (Nationally Significant Infrastructure Projects) system. (This issue would cease to exist if the Council's proposal for a unified 'development permission' system were to be implemented.)
- Q10: Resisting any move to deemed approval for planning permission.
- Q15: Currently, the demand to deliver quantity overwhelms the ability to require quality in design. Reform of the housing delivery test should assist in this.
- Q18: A national body supporting design coding (and good quality design generally), and local chief officers for design and place making.
- Q19: Extending the objective to secure good design to all central Government bodies and agencies.
- Q20: Not implementing – if this was indeed possible – a 'fast track for beauty'. Such an approach has the unavoidable corollary that non-beautiful development would be permitted, even if more slowly.

What approach should be used to determine the housing need and requirement of a local authority?

The Council's response to question 8(a) explains that seeking to impose a number on each district in England based on a centrally-determined formula is likely to be unsuccessful. Requiring something like a national plan to balance the assumed 'need' and local suitability would be an exercise too complex to be likely to produce credible results.

Therefore in its response the Council argues for a standardised approach to calculating local need, adjusted for local circumstances, rather than a national formula. It also argues for local council funding to be set up in such a way that existing residents do not need to fear that additional population (or indeed employment uses) would result in them receiving worse levels of service. This would require a long term stable and reliable system of funding – something the Committee also has a legitimate interest in.

What is the best approach to ensure public engagement in the planning system? What role should modern technology and data play in this?

The Council in response to several questions (Q5, Q10, Q11) supports the use of information technology, whilst cautioning against the assumption that this will be possible as quickly as the Government apparently envisages, and warning of the need to avoid disenfranchising people. It also encourages the Government to pilot approaches so it can be established that they work, and any issues be ironed out, before mandating mass roll-out.

The Council also notes (Q12) that the proposed timescale and stages for local plan preparation would effectively exclude much public participation, and that many parts of the Government's proposal to make 'decision-making faster and more certain' (Q10) would work against public participation.

How can the planning system ensure adequate and reasonable protection for areas and buildings of environmental, historical, and architectural importance?

Essentially, the current system should remain, as set out in the response to question 9(a). Balancing the complex issues around such areas and buildings is a matter of detailed consideration and judgement. The current system is well-designed to approach such matters, although of course additional digital tools may help it operate more effectively.

Given how widespread such areas are in England, even in places which would be likely to be zoned for development under the White Paper proposals, it highlights the impracticality of adopting a blanket deemed approval system.

What changes, if any, are needed to the green belt?

As Daventry District, and indeed Northamptonshire as a whole, does not contain any green belt, this is not a question it has considered.

What progress has been made since the Committee's 2018 report on capturing land value and how might the proposals improve outcomes? What further steps might also be needed?

The Council gave careful consideration to the Government proposals for a reformed infrastructure levy in its response to questions 22(a) to 23. In particular, the Council:

- Is deeply concerned about proposals to make levy payments based on the end value of development. This would make the income highly uncertain and invite gaming and indeed fraud.
- Instead, and here the link with the Committee's previous work should be noted, argued for the levy to be based on the uplift in land value consequent on development being permitted.
- Strongly supported the levy being applicable to changes of use and development permitted under permitted development / prior approval arrangements. Basing the levy on changes in land value would fit well into that system.

Appendix: Daventry DC response to the MHCLG consultation

1. What three words do you associate most with the planning system in England?

Democratic, responsive, positive.

2(a). Do you get involved with planning decisions in your local area?
[Yes / No]

Yes

As local planning authority.

2(b). If no, why not?
[Don't know how to / It takes too long / It's too complicated / I don't care / Other – please specify]

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]

The question is not particularly relevant to a local planning authority. No comments.

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]

Ensuring all new development is sustainable.
Pro-actively responding to the threats of climate change.
Delivering the Council's priorities.

5. Do you agree that Local Plans should be simplified in line with our proposals?
[Yes / No / Not sure. Please provide supporting statement.]

No.

Whilst the desire to speed up and simplify (where sensible) the plan making system is laudable, the White Paper does not provide a convincing case that its proposals would achieve that outcome.

The paper itself paints an overly simplistic view of the planning system, and it is very difficult to see how the proposed new regime would actually work in practise: it would have been helpful if the consultation included a worked example of what the Government has in mind.

In practice, to fulfil the White Paper proposals, local plans would have to show what would be acceptable in each area, so the 'major growth' and 'renewal' areas would not be two areas, but many. So a theoretical three-part system would simply be a surface layer over a system which is a least as complex at the current one.

The purpose of a plan is to set out a bespoke vision for the future of the area and how it will be achieved. This explains why we have a wide diversity of plans in the current system, the issues and opportunities in urban Nottingham are not the same as those in rural Northamptonshire for example. The proposed approach, it seems, would no longer attempt to deal with local issues, and would be no more than a method of identifying land for development.

What does seem clear is that the approach would shift much of the cost of the planning system from the development industry to the planning authorities (one example being master planning and design coding, which would normally be an element of an outline planning application, but under the new regime would have to form part of the zoning plan).

The proposal to designate the whole of the country into one of three 'zones' does not reflect the rich diversity of the built form including its history and heritage, or the complex fine grain land use patterns that we have in this country. This would be borne out if the Government were to undertake a pilot to test out the approach before committing to legislation.

Under the proposed approach it is likely that a significant number of villages within what are now confines/settlement boundaries would have to be identified as 'renewal' areas. This descriptor does not seem appropriate and would appear to be far too simplistic given the diverse character of a number of villages which may feature designations such as 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?
[Yes / No / Not sure. Please provide supporting statement.]

No.

The Council agrees that it would be more efficient to have some development management policies set nationally, as there is a degree of consistency in some policies across the country. However, the White Paper's approach assumes that there are no valid reasons for local variation in development management policies, which is not the case. Both local circumstances and local preferences, expressed through the democratic process, are legitimate reasons for development management policies varying from place to place.

Therefore, the Council supports a national set of development management policies conditional on there being:

- Meaningful engagement of stakeholders in setting the scope of those policies.
- Meaningful engagement of stakeholders in the drafting of those policies.
- A commitment to keep those policies up to date with appropriate stakeholder engagement.

- A process similar to examination in public for testing the appropriateness and effectiveness of the proposed policies.
- Explicit authority and support for variations to the national approach being allowed where this is supported by local circumstances.

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?
[Yes / No / Not sure. Please provide supporting statement.]

Yes.

The Council agrees that streamlining the legal and policy tests with a consolidated test would be beneficial and more efficient. In particular the removal of the need for a sustainability appraisal would be beneficial as these have become overly long documents, and the cost and effort involved in their production is not matched by the contribution they make to sound plan making, as sustainability is in any case a key feature of the planning system.

This support is conditional on:

- The approach to sustainability testing being applicable to all stages and all aspects of the plan making process to avoid duplication, and a standard approach to assessment being set out in guidance.
- The approach genuinely resulting in a significant reduction in the amount of material that has to be produced (in particular SA's can run to several hundred pages, much of questionable value).
- The approach recognising and being consistent with the requirements of other statutory regimes,
- The inclusion of a mechanism for meaningfully addressing cross boundary issues i.e. a satisfactory replacement for the duty to co-operate.

7(b). How could strategic, cross-boundary issues be best planned for in the absence of a formal Duty to Cooperate?

Local authorities are too small to properly plan some matters of strategic importance such as strategic distribution, new settlements and major transport schemes. Also, some authorities are heavily constrained e.g. by Green Belt, National Parks and AONB designations, and others have developed up to their boundaries. To address these issues there needs to be a mechanism for proper strategic planning. The duty to co-operate has largely been ineffective in this regard. This is partly because at any one time planning authorities are at different stages of plan making, therefore some of the decisions that cross boundary plan-making has to deal with, e.g. the merits of green belt release versus exporting need, cannot be properly explored.

Thus, there needs to be some form of 'larger than local' planning, on at least a sub-regional scale. These sub-regions could, where appropriate cross over the former regional boundaries. This would be important in the case, for example, of the Oxford – Cambridge Arc.

8(a). Do you agree that a standard method for establishing housing requirements (that takes into account constraints) should be introduced?
[Yes / No / Not sure. Please provide supporting statement.]

No.

Whilst the Council agrees that a standard method for identifying housing need is a helpful starting point and makes for more efficient use of resources in plan making a standardised approach will simply not be sufficient to respond to the range of circumstances identified (quite rightly) in the consultation document. To do so would require something like a national plan. Producing regional plans was difficult to make meaningful, as the need to understand each local area and sum that knowledge across a large area in order to make good decisions was challenging. Applying that approach on a national scale, even with the aid of good IT, is not likely to be possible.

Any approach would need to address the following:

- Many urban areas extend over their boundaries, and the current method (and proposed method) are not sufficiently sophisticated to respond to this.
- There is no effective mechanism for larger than local planning, so if an authority cannot meets its need e.g. due to green belt, there is no effective mechanism to assess the relative merits of green belt or other constraints release versus re-distribution of housing.
- The White Paper suggests that the methodology could be adjusted to take account of constraints. It is not clear how this could be done in practice, given the different complexities of different constraints and it is also not clear how, or when in the plan making process, this would be done, how it would be tested, and how neighbouring authorities or other stakeholders could engage in the process. This also raises real concerns about how it is possible to reflect constraints in a standard method calculation in a transparent way.
- The need and demand for new housing is not limitless. Planning for numbers significantly above need is an incredibly inefficient use of resources in both the public and private sector, and overloads funding mechanism for grants etc. In cases where planning authorities legitimately plan for significantly more than their local need e.g. regeneration in the Northern Powerhouse, there should be some balancing off with reduced numbers elsewhere. This would require some form of (sub)regional approach.
- Allied to this, there are real issues of building in a multi layered contingency – with the proposed method for local housing need this would be both nationally and at local plan level. In the Council's response to the 'Changes to the Current Planning System' consultation it identified that the national contingency alone in the proposed methodology would result in planning for a city the size of Lincoln every single year.

In any event, if the Government wishes to secure increased housebuilding, it needs to remove incentives to resist it and put in place measures which support it. Currently, if councils want to support growth they have to go through rounds of competitions for funding for infrastructure, which may or may not be sufficient and is always uncertain. Often growth also results in pressure on services (both those provided by councils themselves and by e.g. local NHS trusts) where there is inadequate revenue funding to support them. This means that existing residents have every reason to object to growth. What is needed is sustainable,

reliable sources of both revenue and capital funding, which naturally grow with increased population.

How local government should be funded is an issue of its own, and requires far more consideration than can be given in response to this consultation. However, one model might be to move towards a system where local authorities were able to retain in their area the total of property tax income, with an adjustment for population – that is, an area which had a much higher income per head than others would pay some of that income into a pool, and those with much lower levels of income per head would receive from that pool, again on a per-head basis. That would give councils an incentive to grow both housing and their local economy, and security that income would be there for the long term to meet local needs.

The important point for this consultation is that local people should understand that if there is growth in their area they would benefit rather than suffer from it.

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?
[Yes / No / Not sure. Please provide supporting statement.]

Not sure.

The Council agrees that affordability is a relevant consideration but (as noted in our response to the 'Changes to the Current Planning System') the proposed methodology gives too much weighting to this element, which is subject to significant change and therefore introduces more volatility into the approach and is most unhelpful for plan making.

Assuming reference to 'the extent of existing urban areas' means using the stock levels (as referred to in 'Changes to the Current Planning System') then this is agreed. However it is suggested that this component of the methodology should have more weighting (as it is more stable) and there should be a corresponding reduction in the weighting given to affordability.

Whilst both components are supported, the precise way in which these are proposed to be used in the draft methodology is not because it produces a figure nationally which is significantly higher than the Government's (unevidenced) figure of 300,000 per annum. The extent of the oversupply is some 37,000 dwellings or a city the size of Lincoln, every year. To plan on this scale of oversupply is not a good use of public resources, including the significant amount of public funding of infrastructure for housing that isn't needed, and is arguably an inefficient use of private sector resources. This oversupply is further exacerbated by the requirement for plans to include a contingency of a similar scale. Whilst some contingency may be sensible, having it – in effect – twice is not efficient or desirable.

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?
[Yes / No / Not sure. Please provide supporting statement.]

No.

This approach starts from the wrong premise that the principle of development is still disputed despite an allocation in a plan. That is not the case, if a site is allocated for housing,

and the plan is up to date, there is no issue of principle. There are however still some important matters that need to be resolved, which should not be left to the detailed stage.

An example of this could be an allocation which is in close proximity to a heritage asset, the plan identifies this as an issue, that needs resolution but the way in which this is addressed is through master planning at the outline stage. The benefit to a developer is that the outline permission gives them more clarity about how the allocation will be implemented. If this sort of detail has to be resolved at the plan making stage, it would have significant time and resource implications for the local planning authority.

The current approach of allocation followed by outline would also fit better with the Government's desire to see large sites split between developers. In this scenario developers would want more certainty about the development potential of individual parcels within the allocation: they would not have this certainty merely from its zoning/area designation.

9(b). Do you agree with our proposals above for the consent arrangements for Renewal and Protected areas?
[Yes / No / Not sure. Please provide supporting statement.]

No.

The proposed approach to pre-specifying certain forms of development that would be automatically consented seems to ignore the fact that England has rich and diverse architectural styles, materials and building form. Therefore to specify what should be permitted in certain locations seems unachievable, overly restrictive and would stifle innovation. In certain locations where there is a strong vernacular e.g. the chocolate box villages of the Cotswolds, something approaching this may be achievable, but elsewhere the eclectic mix of styles and materials would make this virtually impossible to achieve. This could actually result in a more complicated system whereby the level of guidance in renewal and protected areas is incredibly prescriptive and detailed to reflect their individual characters.

The Council does agree that there should be a mechanism for considering proposals that are not in accordance with the zoning/areas based approach, and that the current planning application process would seem a sensible way to do that.

9(c). Do you think there is a case for allowing new settlements to be brought forward under the Nationally Significant Infrastructure Projects regime?
[Yes / No / Not sure. Please provide supporting statement.]

No.

The NISP (DCO) regime is designed for major infrastructure, not communities. Moreover, when used for 'building' type development, such as strategic rail freight interchanges (SRFIs), it effectively operates as a form of outline planning permission, with details to follow. Thus using a DCO for a new settlement or urban extension would effectively be repeating the approval which the consultation document proposes would be given under the local plan. It would still need detailed permission for actual works.

Further, the use of the NSIP regime would take the settlements out of the local democratic process. Such settlements should come through existing established planning processes,

i.e. plan making and then application to the local planning authority. The planning authority is best placed to assess the detailed aspects of a particular proposals, and is familiar with all aspects of the evolution of the proposals including achieving an allocation in the plan, and is best placed to work with its neighbours to address any cross boundary issues.

The NSIP regime also requires applicants to set out in very prescriptive terms what is being approved and is therefore overly restrictive on what can subsequently be delivered. In reality what will be built over the following years will doubtless vary from what was envisaged several years previously. The normal planning regime is adept at dealing with this evolution, but the NSIP regime is not.

10. Do you agree with our proposals to make decision-making faster and more certain?
[Yes / No / Not sure. Please provide supporting statement.]

No.

Parts of the proposal, around digitalisation of the process, have great merit (although it needs to be recognised that achieving the potential of digital systems often takes much longer than originally expected, so time will need to be allowed for this). The areas where the Council does not agree are:

- Standard national conditions. Whilst there may be no harm in a list of potentially useful conditions, the Government itself has routinely warned against the use of standard conditions simply because they are standard. Conditions should only be used where they are necessary to make development acceptable in planning terms, and should be calibrated to require as little as possible to achieve this. Standard conditions will often fail to meet this test.
- Streamlined developer contributions: See separate comments on these in response to the relevant questions.
- Officer delegations: If what is proposed is mandatory delegation, this should be avoided. Most decisions are already delegated; matters typically only come to planning committees because there is a reasonable debate about whether something is acceptable. Officers lack the democratic accountability to take such decisions.
- Penalties for slow determination: Councils want to take prompt decisions on planning applications; it does them no good to have applications waiting for resolution. However, delays are typically caused either by insufficient information or statutory consultees responses. It would be wholly unjust to penalise councils for delays which are often not in their control. If the Government, despite this objection, decides to impose penalties for slow determinations they should apply equally to all parties involved: For example, the council, the developer and each statutory consultee with an unresolved issue should pay an equal penalty into a central fund. They would give all parties involved an incentive to work together to resolve whatever issues prevent determination. However, out of proportion pressure to achieve swift decisions would harm achievement of other goals which the Government rightly recognised as important, such as sustainability and beauty.
- Deemed approval: This has the potential to produce perverse effects, including refusals when a little more time would have produced an acceptable scheme. Nor is the Council aware of evidence that facilities such as schools and hospitals are delayed in the planning system.
- Penalties for losing appeals: It would be unjust if merely winning a planning appeal triggered the refund of the planning application fee, and already if a council has acted unreasonably a costs award can be made. (More generally, the points made in

response to question 8(a) apply here: Councils and their residents should be able to have the confidence that permitting development would be beneficial to them. That positive approach would achieve more than this negative one would.)

The Council also takes the opportunity to explain how, in its view, complexity in the planning system could be reduced, and development supported, in the ways the Government intends.

The issue

The Council wholeheartedly agrees with the Government that, as the White Paper puts it, the operation of the current planning system is 'too complex'. The current system also contains variations in scope of different parts of the regime that have no obvious justification, increase complexity and slow down development.

Currently, in England there are two main routes to obtaining permission to build – planning permission (with listed building consent as well if applicable), and development consent. There are also Transport & Works Act (TWA) Orders and Acts of Parliament, as used, for example, on High Speed 2. There are differences between what can be obtained under each of these routes. A development consent order (DCO) can, in effect, include listed building consent and also a range of other permissions, including to modify highways and to compulsorily purchase land, as well as to modify the effect of legislation. TWA Orders have similar scope to DCOs and Acts of Parliament are, of course, capable of all these things and more.

The effects of these differences make no obvious sense. A medium scale commercial development is (taken with others of a similar size) no less important to deliver than a strategic rail freight interchange (SFRI). Yet the SFRI benefits from an all-encompassing DCO, whereas promoters of the smaller commercial development have to obtain their consents piecemeal, and without the fixed time process a DCO follows. A scheme to restore a stately home requires both planning permission and listed building consent for the same works; but a DCO or TWA Order could authorise the demolition of the property as one aspect of the order.

Even within the system of planning permission, there are multiple routes, which have only proliferated over the years. Planning applications for 'major infrastructure projects' (Section 76A of the 1990 Act) can be referred directly to the Secretary of State for determination. Alongside the familiar system of detailed and outline planning permission, with reserved matters, there is now the system of permission in principle followed by technical details consent – effectively, slicing up the stages differently.

The use of development orders to create various classes of permitted development, each with their own list of factors that can and cannot be taken into account, is designed to speed up development but generates significant additional complexity. It also created 'cliff edge' situations; a proposed development which (just) fits into one of the permitted development categories may proceed, even if its overall impacts on the community suggest it should not, whereas a scheme which is just outside of those rights falls to be considered against the full spectrum of planning considerations. Such 'cliff edge' issues will always arise where there are permitted development rights, but where these were limited to minor householder development and some agricultural uses their significance was much less.

An applicant faced with this array of different mechanisms to obtaining their desired outcome may often find it confusing. Increasingly, it is necessary to engage planning and legal advisors simply to establish the best route. This may be desirable for those in these professions, but does not necessarily indicate a public benefit. Similarly, the differences can appear arbitrary to the public, who do not understand why one development is permitted without input, whereas another receives local scrutiny. This undermines public trust in the planning system and in government more generally.

There are, of course, also local and neighbourhood development orders. Whilst welcome tools, these can also generate additional complexity. In these cases, greater use of digital tools (see comments on these elsewhere) may be helpful in increasing ease of use.

Proposed solution

The aim of any proposed solution to this situation would be to create a system which enabled development of all sizes to receive a consideration appropriate to their scale and impact, in an efficient way, enabling public and stakeholder engagement. It would not favour one scale of development over another.

It is therefore suggested that the existing planning permission, listed building consent, development consent and TWA orders are all abolished and replaced with a single regime, perhaps called 'development permission'. Development permission would encompass, as required, all the consents currently covered by DCOs. However, where changes to existing legal regimes was proposed, or compulsory purchase was proposed, a 'development permission order' would be made having this effect, but – as with compulsory purchase orders currently – would be subject to confirmation by the Secretary of State, with such Parliamentary oversight as was appropriate to its scale.

Applications for development permission would be made to the local planning authority, or if more than one covered the area of proposed development, to one of them. By default, the consent of all affected local authorities would be required for development permission to be given. However, building on existing models:

- Where there is a higher level planning body, such as the GLA or a combined authority, rules and/or a direction system should allow for the decision to be taken instead by that higher level body. For example, the Mayor of the West Midlands might determine an application for a metro extension.
- Where a decision is of significance greater than the higher level body concerned (or the local authority if there was no higher level body in that area), the Secretary of State would have the power to call the decision in for his own determination. For example, a new port serving a large part of England would probably be determined nationally.

This single system of obtaining permission to build should greatly simplify the process of applying for permission, determining it and the developer then being able to proceed, with as many different forms of permission as possible included within the permission granted. It would, of course, be essential to ensure that full consideration was given to each of the issues in play, such as protection of heritage where that was affected. This could usefully apply to development permission in each context it was used, from large to small.

(It is not suggested that the use of Acts of Parliament be regulated, as Parliament is sovereign. However, the use of Acts of Parliament to give permission to build is sufficiently rare, and reserved for the most major cases, that this is not a significant complication.)

Turning to the issue of the means of partially granting permission, the Government has sought to give greater certainty earlier to developers – and their funders – through the permission in principle system. However, it is unclear if permission in principle will actually give sufficient confidence to support investment, given how much it leaves to be determined later. As mentioned above, having two parallel ways of 'slicing' a complete permission also generates its own complexities and costs. Given that the UK has now left the European Union, a simpler approach may be to reform the requirements for environmental impact assessment so that at outline permission stage they can focus on issues which have a real environmental impact that needs to be controlled at outline stage, such as pollution of ground, air or water or loss of biodiversity. (This is consistent with the Government's Proposal 3, first bullet point.) Much of the complexity currently associated with securing outline planning permission is a result of case law relating to what needed to be known in order to be able to grant permission. If the information requirements are scaled back so would the requirements for applying for outline permission.

Drawing on the concept set out above, this might lead to a two-type system of development permission:

1. Two stage:
    - Permission in principle, which would fall somewhere between the current design of PiP and outline planning permission – closer to how outline planning permission operated in the 1980s
    - Followed by permission in detail (completing the package).
2. Single stage: Full development permission.

As far as permitted development is concerned, the Government should carefully consider the extent to which it is actually required in order to deliver on its objectives for development, and indeed how much it would run counter to them. For example, permitted development to convert offices to housing is unlikely ever to meet the Government's aspirations for "beautiful, affordable, green and safe homes, with ready access to better infrastructure and green spaces".

However, where the Government does conclude such rights are needed, it would be greatly preferable to situate them within a clear statutory framework, which was consistent across types of permitted development. This would be simpler for applicants, more comprehensible to the public and simpler to operate for local authorities. The obvious statutory structure to use would be the PiP system: those forms of development the Government concludes should be acceptable by default should be deemed to have been granted PiP. The remaining details would then be approved by the 'permission in detail' step. This would allow for the abolition of the separate prior approval system.

If the Government was to conclude (contrary to the Council's arguments elsewhere) it was necessary to require a system of deemed consent on, for example, local plan allocations or brownfield register entries, this would also be the clearest and simplest way of achieving that aim.

Finally, as a further point of general application to efficient decision-making, it should be noted that there has been movement to a much greater degree of legal as opposed to policy structuring of the English planning system. For example, requirements on the use of conditions and planning obligations, long managed via policy, are now set out in law. Likewise, the system of prior approval for permitted development rights imposes legal restrictions on the factors which can and cannot be considered. This may have some benefit in increased certainty, but equally it has disbenefits, not least in enabling – and therefore inevitably resulting in – litigation over issues which would previously have been in the discretion of local authorities or the Secretary of State. Litigation is not known for being a cheap and quick way of reaching resolutions.

The Government is therefore encouraged to consider whether this direction of travel is one which supports effective planning decision-making, or, overall, causes delay due to the risk of litigation.

11. Do you agree with our proposals for accessible, web-based Local Plans?
[Yes / No / Not sure. Please provide supporting statement.]

Yes.

The principle of moving to accessible web based plans is fully supported. However, it is important to remember that there are still stakeholders that do not have access to, or are not familiar with, technology. It is important that they are not disenfranchised from the system.

Given the lack of clarity about the details of what the Government's intentions are for the new planning system, it would be more sensible to develop the tools referred to in the White Paper in the short term, i.e. before it moves to legislation, in order to fully assess if the system can operate in the way that it envisages, and also for users of the system to get a much better idea of what it has in mind.

Any such system should also support local discretion, and innovation. Standards, whilst essential, must not be a bar to further progress.

12. Do you agree with our proposals for a 30 month statutory timescale for the production of Local Plans?
[Yes / No / Not sure. Please provide supporting statement.]

No.

This seems totally unrealistic for any form of plan. The lack of clarity about what the Government has in mind for the new planning system, with far more detailed design guidance that will inevitably be needed to reflect the different characters of areas within respective zones, makes it seem all the more unachievable.

The balance of time within the regime seems odd, with the planning authority given only 18 months to prepare the plan, from scratch, including evidence base and engagement and the Inspectorate then has a full 9 months to consider this.

The approach has only one stage of engagement on the content of a plan which means there is less opportunity than most authorities provide under the current system. This seems at odds with the Government's intentions to make planning more accessible.

Stage 2 is far too short. Local authorities first have to identify what evidence is required, some will be obvious, some less so, and then go through procurement processes to commission that evidence. Not until the evidence has been well advanced can it be used to inform policy choices. This is not achievable in a 12 month period.

The Government also needs to factor in the complexity of further allocations, be they urban extensions or new villages. Any 'easy wins' i.e. sites with few constraints have long since been developed, and local authorities are now faced with bringing forward sites with multiple technical and other constraints (including infrastructure) which take time to address, such that sites can be demonstrated to be deliverable. Also the need for speedy production of plans (coupled with the requirements of the Housing Delivery Test) would drive local authorities to greenfield sites, as these can typically be more readily developed than brownfield sites. As a result urban renewal will be much harder, if not impossible to achieve.

Stage 3 refers to 'higher risk' authorities, but gives no explanation of what is meant by this term.

The White Paper seems to suggest that any comments can be made at stage 3, the submission stage, provided they set out how the plan should be changed and why. Under the current system, any comments have to be framed against one of three tests, against which the plan is being assessed. This helps marshall any comments in a logical way which makes it more efficient for the Inspector to deal with. There is a real risk that the approach now being suggested will result in the Planning Inspectorate being overwhelmed with comments. This is a particular risk given this will be the first full plan people have had the chance to comment on and could result in an even longer examination process. (Irrespective of its other issues, if implemented, the approach would need to not penalise local authorities if the Planning Inspectorate was not able to examine the plan within its 9 month allocation.)

There is a strong objection to the proposed binding nature of the inspector's report, which would undermine engagement and democracy in the planning system. It is not clear how an inspector could have sufficient evidence to impose a binding change on a local authority, if by this it is meant that the inspector could require the council to adopt the plan with his specified amendments.

Stage 4 – the White Paper states that an inspector could simply state agreement with the whole or parts of the Council's Statement of Reasons. The White Paper does not set out what will happen to those part of the Statement that they do not agree with.

Generally

The imposition of a timetable would mean that the vast majority of local authorities would, at any one time, be at the same stage of plan making. This would have resource implication throughout the system:

- All local authorities will be seeking evidence at the same time. There is no evidence to suggest that the specialist consultants have the capacity to deal with this, and in any case it runs the risk of inflating costs.
- Local authorities who currently share resources can do so based on having different peaks in plan-making work. If all local authorities are on the same timetable this would not be possible.

- Developers, promoters and landowners would all be expected to engage with a significant number of plans at the same time. There is no evidence to suggest that they have the capacity to deal with this.
- The Planning Inspectorate would be expected to resource many examinations at same time. There is no evidence to suggest that it has the capacity to deal with this.
- The role of Programme Officer relies on there being a flow of work throughout the year. If there is a peak in activity, it is unlikely it could be sufficiently well resourced. The voids in activity after the peak would mean the role is less attractive, but these officers are a vital component of successful examinations.

Under the headings of a fast track for beauty, the White Paper proposes that "where plans identify areas for significant development (Growth areas), we will legislate to require that a masterplan and site-specific code are agreed as a condition of the permission in principle which is granted through the plan." If indeed permission in principle was to be granted, this would be a commendable aim, but it is hard to see how within the very limited timescale proposed here for preparing local plans.

If the Planning Inspectorate is to be set firm targets, it should be established as freestanding statutory body with operational independence, rather than as, ultimately, part of the Secretary of State's Ministry. Such a change would also have benefits in terms of the visible objectivity of the examination process. Ministers would, of course, still set policy as well as the operational targets for the Inspectorate.

13(a). Do you agree that Neighbourhood Plans should be retained in the reformed planning system?
[Yes / No / Not sure. Please provide supporting statement.]

Yes.

Neighbourhood development plans play a valuable role in the suite of plans. Whilst they have limitations, NDPs do provide a valuable vehicle for local people to help shape their environment. However, the Council is concerned that the reduced role the White Paper would give local plans would likewise make it difficult to for NDPs to have any real effect.

Additionally, NDPs do absorb council resource that would otherwise be spent on plan-making and the policy input into planning applications. Given the Government's desire to speed up plan-making it will be critical that these services are adequately funded.

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?

There is a good case for neighbourhood development plans to use digital tools. However many neighbourhood plan groups are significantly under resourced (people, including people with the necessary IT skills, and finance) so the Government would need to identify how it could assist with resourcing.

It is also important to remember that there are still stakeholders that do not have access to, or are not familiar with technology. They should not be disenfranchised from the system.

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 / No / Not sure. Please provide supporting statement.]

Yes.

This is a far more sensible focus for achieving the Government's housebuilding rates than the current focus on granting more and more permissions. Recent evidence showed that 40% of consents did not get built out. It has hard to see how just granting further permissions is the answer. In fact it could well be part of the problem because it introduces more uncertainty and hence increases risk (competing sites) for investors.

The proposal that the NPPF should stress the importance of large sites having multiple development types and supporting multiple developers on site should provide some assistance in seeing development proceeding at a reasonable pace. The NPPF should be clear that such large sites should include arrangements for subdivision including access for SME builders and self-builders.

In terms of further measures, the Government is urged to implement the recommendations of the Letwin Review in full. This should help ensure the delivery of a wide range of housing, including affordable housing, in good time.

The White Paper suggests the use of design codes to require a variety of different development types by different developers. Whilst different development types could, to some degree, be achieved by design coding, local authorities do not currently have any tools to require more than one developer on any particular site. If this is a route that Government wishes to pursue it will need to introduce legislation to that effect.

Government also needs to be mindful of developers' reluctance to design new standard house types, as evidenced by their reluctance to adapt to the nationally described space standards. If the Government wants to achieve its objectives it will need to be instrumental in achieving a cultural shift in the housebuilding industry.

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.

The quality of design in both the self-build and the volume sector varies considerably across the District. A recent scheme in Daventry town has been of a very high quality, in terms of its design and public realm and has as a result been able to achieve higher than normal values and has achieved a high delivery rate.

There are examples of poor design across the country, some of which is encouraged by the planning system which penalises local authorities which cannot demonstrate a five year supply or meet the Housing Delivery Test. As a consequence planning authorities are forced into a position of approving schemes which, in the absence of such approaches could and

would be of much better design quality. There is no corresponding 'carrot' to encourage good quality development.

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

The issue of sustainability cannot simply be reduced to a question of priorities. The NPPF identifies three overarching objectives for sustainable development (economic, social and environmental) and is clear that these are interdependent and need to be pursued in mutually supportive ways.

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.]

No.

Design Guides and Codes have a place in our planning system, to provide greater certainty about design expectations in specified locations e.g. when bringing forward a housing or employment allocation. However the almost universal approach which seems to be suggested in the White Paper ignores the very varied character of settlements in England and would not be consistent with the recommendations of the Building Better, Building Beautiful Commission. It would also stifle innovations in design and the use of materials.

Widespread use of local design codes would only be possible with substantial investment in local planning resources to prepare meaningful local documents which reflect the character of the area and secure genuine local input.

It is also important to recognise that what is popular in a locality will often tend to reflect what is familiar, which in some cases may hamper achievement of the Government's aims, such as efficient use of land through gentle intensification, and also may unduly prevent innovative design of high quality being produced. The final wording of national policy on these matters should avoid such outcomes.

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?
[Yes / No / Not sure. Please provide supporting statement.]

Yes.

The Council agrees that the establishment of a body to support design coding would be beneficial. However, that support is conditional on representation on the body be locally based to ensure that the body has input with a proper understanding of the design considerations in the locality, rather than imposing a national "one size fits all" approach**.**

The Council agrees that a chief officer for design and place making would help to drive forward improvements in the quality of new development.

19. Do you agree with our proposal to consider how design might be given greater emphasis in the strategic objectives for Homes England?
[Yes / No / Not sure. Please provide supporting statement.]

Yes.

The Council agrees that Homes England should be given a role of leading by example in the delivery of beautiful and well-designed homes and places. But this should not be limited to Homes England. It should apply to all central Government agencies which affect the built environment, notably Highways England, Network Rail, the Department for Education, HM Courts & Tribunals Service, HM Prison and Probation Service and NHS bodies. Too often these bodies currently produce buildings and infrastructure which is perhaps functional in terms of direct service needs, but which harms the character and quality of places where it is located.

20. Do you agree with our proposals for implementing a fast-track for beauty?
[Yes / No / Not sure. Please provide supporting statement.]

No.

This seems unworkable (because it is not capable of being properly defined), and is an unnecessary distraction from the proper operation of the planning system. Indeed, the Government appears to recognise the challenges of using design codes for permitted development when the White Paper says this "proposal will require some technical development and testing, so we will develop a pilot programme to test the concept."

Equipping local authorities with the ability to reject poor design (by, for instance not overriding this issue with five year housing land supply arguments) would drive up standards. Developers would respond to the need to improve their approaches to design in order to gain a timely planning permission, rather than having to re-work a poorly-designed scheme after submission.

Strategically, this is one of the areas where there is potential for real conflict between the Government's stated desire for high quality public engagement and development to be in forms the public like, and its other goals, including gentle densification. This needs to be honestly faced in the proposals that are finally legislated for and set out in policy. Otherwise the unresolved tensions would cause delay, costs and in some cases result in litigation.

As noted above, to the extent that the Government does decide (contrary to this Council's arguments) that the use of prior approval is necessary to achieve its goals, this should be done as part of a clear and consistent statutory framework. This would probably be something like the reformed PiP/Permission in Detail system set out above.

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]

A balanced mix of infrastructure meeting the needs generated by the development.

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?
[Yes / No / Not sure. Please provide supporting statement.]

No.

This would be a retrograde step. Local authorities and developers are well versed in negotiating section 106 agreements. They have a useful role in securing mitigation for development such as transport infrastructure, open space provision, securing the provision of and holding in perpetuity affordable housing and ecological mitigation.

It should also be noted that, contrary to the suggestion in the overview, the Council does not accept that "many local authorities have been slow to spend Community Infrastructure Levy revenue on early infrastructure delivery, reflecting factors including indecision, competing spending priorities, and uncertainty over other infrastructure funding streams". A more realistic view is that uncertainty over future CIL receipts and the legal inability to meet borrowing costs from CIL receipts have made it difficult for local authorities, often with severely stretched finances, to take the risk of early expenditure on infrastructure, and to meet the interest costs from Council Tax income. It should also be noted that the statement above is certainly not true for this Council, which has invested in a range of infrastructure in advance of CIL and planning obligation funds being received.

The proposal to allow local authorities to borrow against future levy income is therefore welcome, whatever form that levy takes.

If, however, the Government is determined to progress a new unified levy, the following should be addressed.

A positive aspect of the levy would be to remove 'cliff edge' situations such as affordable housing thresholds where a slight difference in scale of development results in markedly different levels of contribution. It also has the potential to produce faster and more equitable outcomes. However, it does have negative features which will need to be addressed (further comments on these is provided in response to the appropriate questions below):

- Site boundary issues could become very important, and a potential source of gaming. Consider, for example, a junction improvement was needed on the edge of a proposed development. Currently it would make little difference whether this was included in the 'red line' defining the area of the development, because either way the development would need to fund the works. However, under the levy if off-site works are to be funded from the levy, there would be a strong incentive to exclude the junction from the site.
- Currently Section 106 agreements provide for a range of issues not relating to financial contributions, including transfers of open space (and provisions for management of open space generally) and restrictions on use of land to assist with mitigation of impacts. Thus these aspects of the Section 106 system would need to be retained.
- Affordable housing, which raises particular complications when the need to build balanced and mixed communities is considered.

Due to these issues, it is unclear if a unified levy would in fact be simpler or achieve faster delivery of development, making the case for a major – and inevitably disruptive and complex – change in legislation questionable.

The Council supports the first three of the four bullet-pointed objectives for the levy set out in the preamble to this section of the White Paper. However, it has reservations above basing the levy on end values, for reasons set out below.

Turning to the list of four (bullet-pointed) aspects of design of the levy, the Council comments as follows:

- Charging based on the final value of development would replicate one of the negative features of Council Tax and non-domestic rates, in that it discourages investment which generates value. A tax on land value – in this case land value uplift – avoids this problem, and minimises the distorting effects on economic activity, as land (generally) is neither created nor destroyed. It is for this reason a wide range of organisations, from various parts of the political spectrum, as well as the Organisation for Economic Co-operation and Development (OECD) have expressed support for use of land value taxation.

  Charging end values would raise complex and debatable questions about when occupation had occurred (notably when it could be argued that the use in question was not the intended beneficial use) and invite 'gaming', for example through initial low value use, used to set the levy charge, followed by higher value use. This would be expensive, slow and complex to police, and would risk benefiting those prepared to game the system against those willing to operate in a straightforward way.

  Taxing land value would also support the Government's aim to support gentle densification in suitable places, by putting economic incentives to develop the most valuable land to the best effect. This will typically be in places which benefit from public services such as good transport connections.

  Taxing the increase in land value would still have some complexities, but would involve far fewer transactions to consider and less variables. Overall, it would be a much simpler means of resolving the sums due, and much less prone to 'gaming'.

  The Council therefore urges the Government to base any unified levy on the increase in development value generated by the grant of planning permission. This is also equitable, since compensation was paid to landowners for the controls over development introduced by the Town and Country Planning Act 1947. All subsequent property transactions have that basis built into them. This also suggests an appropriate level of the levy, at 50% of the uplift in value. This would reflect the classic approach known as marriage value – where two parties (in this case, the local authority and the landowner) can between them realise value that neither could achieve alone, then the conventional outcome is that the value is shared equally. This approach does need one important caveat, given below.

- Charges arising at point of occupation gives rise to a number of issues. Firstly, it is practically impossible for a charge levied on occupation to have as its sanction "prevention of occupation". Any attempt to apply such a sanction retrospectively would also run the risk of penalising an innocent party, such as someone who had

purchased and moved into a home in good faith. Secondly, it would make projecting timing of expected levy income difficult for local authorities, reducing their ability to borrow to provide infrastructure early in the life of a development. Thirdly, it would reduce the incentive on developers to proceed promptly with development. It is therefore proposed that the charge be set on grant of permission, and then be subject to an instalments regime, perhaps over up to ten years for large sites. With such time periods, it would be necessary to apply inflation to later instalments to ensure the real value was retained. The current CIL Index could well be used for this purpose. This approach would support efficient build-out, consistent with the Government's intentions as expressed in Proposal 10.

- A minimum threshold for increase in value would be sensible, both to avoid penalising development of marginal viability, and to avoid the costs of collection exceeding the values received.

- The fourth bullet point is not a design principle, but rather an aspiration. In fact, using end values to determine the value of the charge would not "provide greater certainty for communities and developers about what the level of developer contributions are expected". It would leave this highly uncertain, particularly on larger developments. However, setting the charge based on the increase in land value caused by the grant of permission would achieve this goal.

Another benefit of the use of land value increase as the basis of the unified levy would be that just two parameters should be sufficient to define it across England. These would be (A) the proportion of increase charged (50% is suggested both for the reasons given above, and because it should maximise income whilst leaving sufficient incentive for landowners to be willing to act), and (B) the threshold below which no charge would apply.

For clarity, the increase in land value would need to be captured based on the difference between an assumed unallocated site and the same site with permission to develop; otherwise the effect of allocating a site in a local plan would be to significantly reduce the levy income, which would clearly be illogical.

There is an important caveat to the use of 50% as the proportion of value captured. Currently, a combination of planning conditions and Section 106 agreements is used to make proposed development acceptable in planning terms. It is possible that a development, particularly in lower value areas, might have direct impacts so extensive that these could not be mitigated with the standard levy payment (which may, of course, be nil). In such cases the legislation should permit higher payments to be made. Of course, in such cases it is unlikely any affordable housing would be provided, but at least the bare minimum necessary to achieve acceptable development would need to be funded.

It is also suggested that the levy be treated in law as a reformed Community Infrastructure Levy (CIL). There would in any event be a substantial degree of continuity from the 'old' CIL to the new levy, and the name captures the intention well. Calling it a national infrastructure levy would give the wrong impression – that funds were to be handled centrally – and would be unhelpful in building public trust.

22(b). Should the Infrastructure Levy rates be set nationally at a single rate, set nationally at an area-specific rate, or set locally?
[Nationally at a single rate / Nationally at an area-specific rate / Locally]

Based on the proposals set out above, the levy could be set nationally with just two parameters defined – the share of land value uplift captured (suggest at 50% for the reasons given above) and the threshold below which no value would be captured. This would allow for straightforward and rapid implementation, without the need for multiple local assessments.

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?
[Same amount overall / More value / Less value / Not sure.
Please provide supporting statement.]

If implemented, the levy should seek to capture at least as much value as the current system, and should aim to capture as much of the increase in land value as can reasonably be achieved without making schemes unviable, to ensure that other forms of public funding do not have to bear the burden of the demands a development places on an area.

22(d). Should we allow local authorities to borrow against the Infrastructure Levy, to support infrastructure delivery in their area?
[Yes / No / Not sure. Please provide supporting statement.]

Yes.

This would be a sensible approach as it can help deliver infrastructure at an early stage to the benefit of local communities, and can give added confidence to developers by helping to de-risk sites. However the proposed approach to the levy creates greater uncertainty about how much will be raised, therefore making it more difficult for the local authority to judge how much it can safely borrow.

In designing the legislation (whether for CIL or the unified levy), the Government should be careful to ensure the ability to borrow can actually be relied upon, or local authorities will not use it. The current provision of the CIL Regulations relating to borrowing, if it was ever 'turned on' by Ministerial direction, would have little effect as a council could borrow now against income expected in ten years' time, but by the time the income was received a fresh direction could have 'turned off' the ability to use the receipts in that way. This would mean councils would be reluctant to borrow to any material degree. The new regime should be based on the general prudential borrowing rules, meaning that there would be no doubt that if a council took on debt it would be able to use future levy receipts to support it. The regime should also explicitly allow for meeting interest costs from levy receipts; without this the pressure on revenue is likely to greatly limit the degree to which councils can borrow and thus ensure infrastructure is in place in good time.

23. Do you agree that the scope of the reformed Infrastructure Levy should capture changes of use through permitted development rights?
[Yes / No / Not sure. Please provide supporting statement.]

Yes.

The levy should include all forms of development, including those permitted by permitted development rights. Indeed, there should be no exceptions at all from the levy, because the exceptions make the system more complex and give rise to risks of 'gaming' and perverse

outcomes. That said, if the levy was based on increases in land value consequent on permission to develop, domestic extensions, for example, would be unlikely to attract any meaningful level of charge (and thus would be likely to fall under the threshold for no payment being required).

Specifically in the case of affordable housing, given this still generates a requirement for infrastructure it should not be excluded from the liability to pay the levy. Removing the exemption would greatly simplify the calculation of sums due. It may seem illogical to levy a charge on something which is, in turn, supported by public funds or one form or another. However, exactly the same argument can be made for VAT and other indirect taxes. In most cases these are charged on all economic activities in scope, also to avoid complicating the system and reduce the risks of 'gaming' (and indeed fraud).

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 / No / Not sure. Please provide supporting statement.]

Yes.

These comments are made notwithstanding objection in principle to delivering affordable housing through the Levy.

There is every reason why the aim should be to achieve the same amount of affordable housing as under the current regime, as most local authorities continue to underprovide against their affordable housing requirement. There is therefore no scope to reduce future provision.

Yes, affordable housing should, wherever possible be provided on site, to ensure a good distribution across each district and to provide mixed and sustainable communities.

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?
[Yes / No / Not sure. Please provide supporting statement.]

Yes.

If the levy is implemented, affordable housing should be dealt with a right to purchase. The mix should be specified in conditions, with the council then using funds to acquire as many suitable units as it considers appropriate and can afford.

An in-kind approach is not preferred. It should be noted that if it was followed, agreements at least as complex as current Section 106 agreements would be needed to make the arrangements. This would work against the Government's aims to speed up the grant of permission to develop.

24(c). If an in-kind delivery approach is taken, should we mitigate against local authority overpayment risk?
[Yes / No / Not sure. Please provide supporting statement.]

Yes.

This is a real concern so would need to be addressed in a robust way. Notwithstanding the response to question 24(b), if in-kind provision was pursued, then the value of the in-kind units should be capped at the original projected value so that changes in market conditions do not expose councils to undue risk.

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 / No / Not sure. Please provide supporting statement.]

Yes.

A variety of tools are required to achieve this including space standards, approaches regarding tenure type and size and arrangements for nominations by the local authority, these will be variously set out in development plan policies and supplementary planning documents.
It is also necessary to ensure that standards in the quality of workmanship are enforced.

25. Should local authorities have fewer restrictions over how they spend the Infrastructure Levy?
[Yes / No / Not sure. Please provide supporting statement.]

No.

The current scope of use of CIL is generally sufficiently broadly drawn to allow for all necessary actions to respond to the impacts of development whilst also benefiting local communities. The Council would be concerned if the rules were materially widened, as it would run the risk of breaking the link between the levy and infrastructure, harming public confidence that development would be properly managed.

25(a). If yes, should an affordable housing 'ring-fence' be developed?
[Yes / No / Not sure. Please provide supporting statement.]

No.

Whilst affordable housing is very important, the 'right' allocation of levy funds is a matter best determined locally. There is no reason to believe local authorities would not prioritise providing housing their residents need.

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?

As has been noted at various points in this response, the White Paper proposals risk disenfranchising those with less access to, or ability to use, modern computer technology. As a result, they risk indirect discrimination on grounds of age and disability in particular. These issues can probably be overcome, but they need to be acknowledged and addressed.

Other comments

Whilst the Government has not invited comments on this matter, the Council wishes to express its deep concern about the inclusion of the former B1 use class within the new E use class. The effect of this change is that out-of-town locations currently used for offices, research and development or light industry could be converted into shops without any requirement for planning permission. This is likely to result in two unwelcome effects:

- Undermining ‘town centre first’ policies, including those set out in the NPPF. At a time when town centres are facing the combined impacts of Covid-19 and the growth of Internet based retail, this is likely to result in further serious harm to town centres, with consequential social and environmental harms.
- Unplanned and unmitigated traffic, noise and light impacts.

The Government is therefore urged to swiftly remove B1 uses from the E use class and return them to be a separate category.

More generally, the Government is urged to use the use classes for their original purpose: grouping together activities which have similar effects, to minimise unnecessary regulation whilst protecting the public interest.

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