Hinckley and Bosworth Borough Council

Response to Planning for the Future White Paper

18th October 2020

Summary Response

Hinckley and Bosworth Borough Council welcome the opportunity to respond to the Planning for the Future White Paper consultation. We wish to work with government to identify and find solutions to the aspects of the current planning system where there is room for improvement, to ensure the current planning system is efficient and effective. However we do not agree that radical reform of the planning system is required to achieve the objectives set out in the white paper.

The white paper is heavy on rhetoric and light on detail. We disagree with many of the criticisms made of the current planning system and express concern that little research, analysis or any form of comparison has been undertaken on the current system, the proposed system or alternative options that are in operation elsewhere in the world. The paper provides no analysis of recent reforms to the planning system such as the extension of permitted development rights, the five year land supply and the presumption in favour of sustainable development. We would want to see an assessment of the overall impact of such changes as we believe it is reforms like these which have actually led to the system being more complex, and more remote from local democracy and decision making – reducing the trust of the public in planning.

Latest figures show that 2,564,600 units have been granted planning permission by councils since 2009/10 while only 1,530,680 have been completed. The current system is providing a framework for the supply of new housing however the delivery side is failing. Yet the white paper contains no provisions which would either incentivise developers to build, or penalise developers for not building. The planning system provides the land but the developers do not provide the houses. Though it is the planning system once again taking the blame for the failures of others.

The white paper is thin on detail, to the extent it is often unclear how a number of these proposals would operate in practice. Terminology is used loosely in the paper and it is challenging to provide full and effective responses whilst the paper itself lacks coherency. Elements of the paper are in conflict - such as the desire to give communities and neighbourhoods a more meaningful voice in the future of their area yet removing the ability for them to do so by minimising public input to development proposals and the ability to produce meaningful neighbourhood plans.

Key Messages

- **Local Decision Making**

We oppose the centralisation of planning decision making that weaves through the white paper. The proposals would lead to a significant transfer of local decision making to government. We believe planning decisions should be based on local evidence to respond to local circumstances, issues and priorities. Nationally set housing requirements, local plan policies and levy's will not respond effectively to local circumstances, will further erode local democracy and only increase the remoteness of planning from the public.

- **Housing Requirements**

We do not support nationally set binding housing requirements. Firstly there is no national assessment of housing need or housing requirement in England that can be used as the starting point to set figures at a local level. An assessment of constraints at a national level will either have to be incredibly complex or very light touch. Either way it is unlikely such an assessment could possibly reflect the individual circumstances of the diverse local areas in England and will lead to some areas being set requirements that are either too low to meet growth aspirations or that are undeliverable regardless of land supply.

The white paper makes no mention of jobs and economic growth in the assessment of housing requirements. This may lead to houses being provided in areas far from employment opportunities leading to unsustainable commuting, and mean areas of strong growth do not have housing requirements to sustain future growth. This was evidenced in the consultation on changes to the current planning system which put forward a revised methodology to assessing housing need which would transfer housing need from urban areas to rural areas.

- **Democracy and Public Participation**

A criticism of the current system is that the public have lost trust with planning and that consultation is dominated by a small minority. A key theme of the white paper is to move democracy forward and 'give neighbourhoods and communities an earlier and more meaningful voice in the future of their area'. The proposals in the white paper will not achieve this and may well lead to further disenfranchisement and loss of faith in planning by the public. The proposals would effectively negate the main purposes of producing neighbourhood plans and limit the ability to comment on planning applications and proposals. Whilst the desire to focus public participation on early stages of plan making is supported in principle, the proposals overall would actually reduce the opportunities for the public to have a meaningful say in local plan production. It is difficult to see how these proposals would increase the effectiveness of public participation in planning over the current system.

- **Planning Appeals System**

As part of any reform of the planning system it is imperative a full review of the appeals system is undertaken. It is noted that the Planning Inspectorate are currently failing many of their performance targets and the length of time for appeals to be decided does not provide certainty to local authorities, applicants or the public. This is an area of the planning system where there is significant scope to speed up the system and this has greater importance as some of the proposed reforms – such as the refund of fees if applications are not decided within set times - will likely lead to more refusals of permission, and more planning appeals increasing the workload of the Inspectorate.

However we also have fundamental concerns over the appeals system itself. The system is heavily weighted in favour of developers who have the ability to launch costly and resource intensive appeals compared to the limitations of local planning authorities. The threat alone of a costly appeal often weakens the ability of planning authorities to defend decisions even when there are strong planning reasons against a proposal. Financial considerations should not cloud planning decisions in this way.

We believe there are a range of options that could be considered as part of a revised appeals system such as limiting rights of appeal where decisions can be shown to align with the local plan or, for housing applications, where authorities have a five year land supply. A fee system for appeals may, for example, help to cut down on the number of spurious appeals being made with the hope that the threat of an appeal will pressure a planning

authority to grant permission for a repeat application. Whilst these options and others would need further exploration of how they could work we would support proposals that limit the opportunity for developers to 'game' the planning system. As one of the proposals in the white paper would see application fees refunded to applicants if permission is granted on appeal, the appeals system has to be fairer, consistent and more transparent.'

- **What we want to see**

No planning system will work effectively unless it has the resources and skills required to make it work. It also requires political will to allow it work, without constant criticism and endless reforms. Although we do not necessarily agree with the full details set out in proposal 23, we do in principle support a review of resources and skills in the planning sector. However if there is an acknowledgement by government that there are issues related to resources and skills in planning now why can't such a review be undertaken on the current system, before putting forward proposals to radically reform the entire system?

To reiterate we wish to work with government to find ways to improve our planning system and we believe many of the aims of the government are already being met by the current system or have the potential to be. There are elements of the white paper which we support in principle. For example we wish to explore options to speed up the integration of technology into planning subject to the resources and the right technology and software being available. A greater emphasis on design is supported and developers and housebuilders should be urged to put the value of good design central to development proposals from the very beginning – the onus should not just be on local planning authorities. Also we would welcome a review of how the public can meaningfully interact with planning - although we have reservations with the proposals put forward in the white paper.

However the white paper contains no reference to, or proposals for, reform to the delivery side of housebuilding. A review of the planning system must be considered in the light of the failings of developers and housebuilders to develop the sites and build the houses the planning system has provided for through land allocations and planning permissions.

Now is not the time to radically reform the planning system as this will lead to years of uncertainty to implement an untried, untested system. The planning system needs a period of stability to allow plans to be developed effectively and permissions granted. We look forward to further engagement with the government on the future of the planning system.

Response to Questions

<u>Pillar One – Planning for development</u>

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

No specific comment

2. Do you get involved with planning decisions in your local area?

2(a). If no, why not?

Yes, as a local planning authority.

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?

Public involvement in planning is key to maintaining its openness, transparency and credibility. We welcome increased acceptance of the importance of communicating through social media and web based technology in planning. Social media means we are able to reach a large proportion of our community quickly and cost effectively. However it is important to refrain from information overload. For example if every application the council received was posted on social media people could soon lose interest as the majority would not concern/be of relevance to them. However for significant proposals and key milestones for local plan production it can be an effective awareness raising tool. It is important however that the circumstances of all members of society are considered including those who may not have access to social media or the necessary technology to use it.

Signs on lamp posts can be far reaching. People who do not necessarily live next door to a site but walk past every day or work nearby can read it and get involved if they want to. They are not necessary for small developments, but for major developments they still serve a purpose. However, it is important to note that a site notice is only helpful if it can be placed where there is a footpath or a place people can stop and read the notice, occasionally this cannot be achieved and so the site notice can in these cases be unnecessary. Our authority uses QR codes on site notices, and this allows people to scan the code on their smartphone allowing access straight to the planning application web pages with all plans and documents to view. This is easy to do and makes it a lot more accessible for the public to view plans.

Some residents in our borough like receiving consultation letters; we at times receive complaints that somebody 'didn't get a letter so cannot comment on the application'. If letters to neighbours were abolished altogether there would need to be a system which replaced this and ensured that people a development would affect are notified or are made aware of the application in some way. It would also need to be made very clear that anybody can make comments on the application. It would also be important to look at how responses are received, if it would assist the digitisation of planning to have some type of standard format of response for example.

Adverts in newspapers are no longer necessary. They are extremely costly to the local authority and, given the continued fall in readership numbers of local papers, there are now better ways to notify locals of applications which can reach a wider number of people.

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

As a local planning authority it is not possible to choose only three priorities for planning. The examples listed as part of the question are all priorities and are all important for us to achieve.

5. Do you agree that Local Plans should be simplified in line with our proposals?

No. Whilst it is acknowledged that there is scope to simplify local plans there is the potential to do this within the framework of the existing planning system.

Overall we are concerned that there has been no technical assessment or analysis of the advantages and disadvantages of the existing planning system presented as part of this

white paper or of reasonable alternatives or options for a different system. There are a range of various approaches to zonal planning elsewhere and it would have seemed logical to have undertaken a review of those existing systems - a lessons learnt approach. Instead however an untested bespoke, hybrid system has been proposed. Given that the white paper proposes fundamental reform of the planning system we have reservations that no analysis or research appears to have been undertaken either on the current system, the proposed system or on any reasonable alternative systems.

Details of the proposed approach to local plans are vague, terminology inconsistent (see response to 9a regarding outline permission, and it is noted in this section it is referred to as 'outline approval') and often lacks the detail to make an effective assessment of what is being proposed. Also as discussed later in response to 9b the use of 'renewal' to describe one of the three proposed 'zones' is somewhat clumsy and doesn't seem to fit what is being described. Alternative terminology may be more appropriate and as with much of the terminology in the white paper more clarity on what is meant is needed.

The proposal sets out that land within a local planning authority area would be 'allocated' into one of three zones – growth, renewal and protection. It is understood that within these zones there would be further sub areas. There is little detail on the concept of sub-areas so we would welcome further clarification on how these are proposed to operate. However this could become particularly complex if sub areas are to represent the very diverse range of land uses/types/developments within areas, along with the rules and parameters that it is assumed would need to be set for each sub area within each of the three zones. As all land will be zoned it means the local plan would need to assess every street and small site to put it into one of the three zones/sub areas – this would seem highly resource intensive and much more so than the current system. It is possible that reform along these lines would lead to a more complex system than that presented in the white paper and may not necessarily represent any form of simplification of the local plan and wider planning system.

Furthermore setting fixed rules and parameters for development will remove the discretionary aspects of planning that the white paper criticises of the current system. Yet this inflexibility means that it will be difficult for the planning system to be responsive to change, in the way the current system allows through the way policies are written and through the assessment of other material considerations. A rules based approach removes any potential leeway or flexibility which could actually restrict development or allow inappropriate development and would remain fixed until it can be reviewed through a new local plan and then fixed once again.

There is very little mention of non housing land uses in the white paper, and even then it is mainly in terms of boosting the delivery of housing. This raises the question if the proposed system has been fully thought through in terms of the aims and objectives of planning as a whole, or if it has only been thought of as vehicle to build more homes at the expense of other social, economic and environmental aims?

Under the proposed system delivery would still be controlled by the market. If landowners do not want to sell (at a reasonable price), and developers do not want to develop it doesn't matter what system is in place - unless local authorities are given greater powers to influence the delivery side or the government actually tackles that failing market. To assume this system would increase delivery is not necessarily realistic.

Alternative options:

One of the alternative proposals is to have a binary designation. This should not be an either/or scenario as growth can facilitate renewal and therefore they go hand in hand and there should be flexibility to allow LPAs to do binary designations too and certain parameters

can be set for this. The second alternative option is essentially the same as the current site allocation documents.

6. Do you agree with our proposals for streamlining the development management content of Local Plans, and setting out general development management policies nationally?

No, local planning authorities should be able to set policies that reflect local issues, priorities and circumstances. Development shaped by nationally set policy can not provide the form of development needed by a diverse range of local communities. We do not support the further centralisation of planning policy and decisions.

In the current plan-making process, planning policies that are set out in the National Planning Policy Framework (NPPF) are not usually duplicated in local plans but are expanded to give local context such as affordable housing needs, type and tenure and housing mix/density. It is therefore not accurate to state that local plans merely repeat national policy. Furthermore the lack of locally specific policies may lead to further detachment of local people from the planning system, undermining confidence in the planning system.

Notwithstanding our opposition to nationally set policies the paper leaves a number of questions unanswered. For example will nationally set polices be fixed for a minimum period of time in the NPPF – frequently changing policies will not provide certainty in the system. Will nationally set policies be subject to a rigorous assessment process in the way local plan polices currently are – based on sound evidence, justified and subject to scrutiny? These details are lacking from the white paper.

The intention to have an almost tick box approach to whether a development accords with policy or not is difficult to envisage as every application is dealt with on its own merits. A very prescriptive set of policies would have to be created that would not offer any room for alternative interpretation. How would design considerations be machine readable? There is a real risk that planning decisions become an objective assessment of a subjective matter.

The alternative approach where circumstances would require a locally-defined approach may work if the exceptions were matters such as housing mix and type and employment and retail needs. However the evidence behind these policies may take time to gather and would be difficult to finalise within the proposed statutory time frames for Plan making. The second alternative approach is no different from the current approach and would not necessarily achieve the Government's aim to streamline or simplify the process.

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?

As with many of the proposals in the white paper there is a lack of detail of what is being proposed and how it might operate in practice. There is no detail on the proposed 'sustainable development' test and we would want to see further detail before providing a definitive opinion.

Nevertheless there is potential scope to streamline the current approach, and we welcome consideration of this however it should not be done to the extent it loses its purpose or leaves space for potential legal challenge.

It should be noted that the purpose of sustainability appraisal is to inform the development of the plan. The white paper does not acknowledge the important role this plays. Furthermore 'sustainability' also covers a wider range of issues including social, economic and environmental considerations. A simplified environmental impact would not cover the full range of sustainability considerations.

Similarly we would want to see more detail on changes to the assessment of deliverability although it is considered the burden of assessing and demonstrating deliverability should fall on landowners and developers and not local authorities.

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

The duty to cooperate as it is now does not work effectively however without it there would be no formal mechanism to address strategic/cross boundary matters.

The Duty to Cooperate test enables LPAs to work together on matters of infrastructure, housing and employment needs. Hinckley and Bosworth Borough is situated on the boundary of Leicestershire and Warwickshire, which are two counties subject to a large amount of warehouse development due to their central location nationally. Such development needs to be coordinated and planned for at a strategic level to ensure levels of development are sustainable, rather than reactive and risking development of this mass and nature in areas not necessarily suitable. Therefore, this is an example where a level of duty to cooperate in some form or another would need to be retained.

8(a). Do you agree that a standard method for establishing housing requirements (that takes into account constraints) should be introduced?

In our response to the 'Proposed Changes to the Current Planning System' we highlighted a range of concerns over the use of a standard method for establishing housing need. In particular a national method can not reflect local conditions and we believe assessments of need and requirement are best made at a local level.

The consultation paper is not clear on what the method to calculate housing requirements would consist of. The current method and that proposed in the Changes to the Current Planning System consultation use a combination of national data on household projections, housing affordability and housing stock. The use of this data is flawed in setting local housing need and should a similar approach be used as the starting point for establishing a binding local housing requirement the same flaws will be present and the same concerns will arise.

To establish a housing requirement for each local planning authority area there must be a national figure as a starting point. In the paper the somewhat arbitrary 300,000 homes housebuilding target is referred to. This is of course not an assessment of how many homes are actually needed, and there is a lack of clarity why this figure is being used as the basis to set a housing requirement? In addition there is nothing to indicate that this method will actually direct housing where it is most needed, especially if those areas are the most 'constrained'.

The white paper refers to land constraints and the opportunity to use land more effectively as issues that will be factored in when establishing housing requirement. However under the current system in establishing a housing requirement figure local planning authorities also

consider a range of other factors such as land availability, the capacity of the market to deliver, infrastructure (existing and proposed) and employment and growth strategies.

With regard to an assessment of constraints, again the white paper lacks detail of how this would work in practice. However this is potentially a very complex process and it is difficult to see how the current local assessment of constraints can be accurately transcribed into a national process. It is easy to envisage there will be significant disagreement on what constraints should be considered and the extent to which they should be considered.

The approach to setting a housing requirement figure presented is naively simplistic and risks setting targets that may be entirely unachievable because the scale of development can not be delivered by the market regardless of land availability, or even setting a figure well below that which local planning authorities want to deliver to achieve locally determined priorities such as infrastructure delivery.

We believe decisions on assessing housing needs and requirement should be set locally based on local evidence to address local needs, policy and priorities. We oppose the imposition of nationally binding housing requirements.

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?

As referred to in our response to 8(a) affordability is not an adequate indicator of housing need. The paper is not clear on how the extent of existing urban areas will be taken into account, other than a vague reference to urban densification. How this will be considered at a national level given the significant variances in urban areas across England is unclear. Some urban areas may be capable of further densification whilst others may not. A centrally dictated one size fits all approach is not appropriate.

A main constraint on affordability is land availability and large urban areas often have Green Belt restricting additional development. Unless Green Belt is reviewed and released in parts, the land availability and therefore affordability around urban areas will not change. This will restrict the quantity of development that can be accommodated, pushing additional development onto those areas that are not constrained by a policy designation such as Green Belt.

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?

Firstly the paper is not clear on what is meant by outline permission. It has been suggested subsequently by MHCLG[1] that this is not necessarily what is currently known as outline permission although no further explanation of this is provided. Again this lack of clarity on terminology and on detail is particularly unhelpful in formulating responses to the paper.

However it is reasonable that for allocated sites the principle of that development should be accepted and this is in effect what the current system already does. However the current system also allows for other material considerations to be taken into account which allows for any significant changes since allocation to be considered. Whilst some form of formal consent would provide a level of certainty it strips away flexibility meaning plans are unresponsive to change, and remain so until they are reviewed.

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[1] Michael Bingham, LGA Planning White Paper Workshop, 1st October 2020

If an outline permission is granted with the adoption of the plan and is extant for that plan period, how will this tie in with option and land agreements which are usually three or four years long? Granting planning permission does not ensure delivery, in fact allocating a site affects land owners mind set and can compromise development viability. An in perpetuity grant of permission may actually have the perverse impact of reducing the incentive to deliver, as there are no time limits within which to start development unlike the existing system.

Experience of zonal type planning systems elsewhere has shown there is little evidence that zonal planning boosts or hastens housing delivery, but may even slow down delivery and increase land banking in comparison to the existing English system.

Because of the uncertainty around the terminology of outline permission in the paper it is unclear if there will need to be conditions attached to the permission. What issues will be accepted at outline permission stage? If as is assumed most detailed issues would be left for later detailed consent it is not clear that this will actually save time in the long run in granting permission, its just delaying the full assessment of the proposal. However if a range of issues are proposed to be agreed at allocation/outline permission stage then there will be a significant extra burden for plan making and require additional consultation with statutory consultees, infrastructure providers etc. which are unlikely to fit in with other proposals to reduce the time taken to develop local plans.

A further consideration is that if there is a long gap between allocation and outline permission before detailed consent is applied for, many of the assumptions of the original allocation may have changed which may not be able to be resolved through an assessment of detailed matters.

The resources needed to prepare a Local Plan, Design Code(s) and Local Development Orders in parallel is significant. Would they all have the same timescale requirements, if not how would the local plan work if the other documents are not in place at the same time. The consultation on all documents would need to be carefully undertaken to avoid any confusion with local communities.

9(b). Do you agree with our proposals above for the consent arrangements for Renewal and Protected areas?

As with outline permissions in growth areas, the white paper is particularly unclear on how development will be consented in renewal areas with a range of sometimes conflicting terminology used. For example automatic consent for renewal areas reflects outline/permission in principle for growth areas. It would be useful if the language used was clear and if the differing forms of consent process had distinct names and descriptions. There is a lack of clarity and detail over how permitted development and fast track to beauty consents would operate in this system – if schemes in conflict with local plans and policies could be allowed through these routes with no local authority scrutiny, and if development in renewal areas would be subject to design codes and guidance.

In addition there is further complication that proposals that are contrary to the local plan could still be brought forward through a planning application – it is assumed following a similar process as now but again this aspect lacks clarity. The paper considers these applications would be exceptions rather than the rule however experience suggests such proposals contrary to the plan are much more common and likely to be even more so since local plans under the new system would be much more rigid and inflexible.

In general the term 'renewal' is rather clumsy and implies some form of redevelopment or modernisation of damaged urban form. This doesn't really fit the description in the white paper and probably wouldn't reflect the land that would likely form this categorisation of area.

Local Development Orders require a significant amount of detail and background evidence. These cannot be drawn up quickly, would this in reality speed up the existing determination times of applications?

The purpose of protected areas is unclear. If planning applications can be submitted for development in protected areas what is the purpose of defining these areas as protected areas, given that they will normally already be afforded some policy protection being land that is already 'designated' in some form such as Green Belt, AONB and/or areas of significant flood risk. The protection allocation doesn't seem to actually offer anything more to those areas other than another layer on a map. Furthermore given the variety of land which could be classed as 'protection' some areas may be more suitable for development or a form of development compared to others. Will areas designated as protection be able to reflect that land in the open countryside may for example be more suitable for rural worker accommodation than land in the functional flood plain? If as the white paper expects all development needs can be addressed through growth and renewal designations why would the plan need to consider development outside of those areas?

9(c). Do you think there is a case for allowing new settlements to be brought forward under the Nationally Significant Infrastructure Projects regime?

No, the Nationally Significant Infrastructure Projects regime removes all local decision making and accountability from the planning process. Again we are concerned by the centralisation of decision making by government. Experience of existing NSIP schemes is that local communities feel excluded from the process and that it is a further erosion of democratic process. This will do nothing to build public trust in the planning system.

It is disappointing that no evidence has been presented as part of the consultation to demonstrate that the NSIP regime speeds up or even improves the quality of decision making, or otherwise.

Larger sites have delivery issues - it is not just the time taken to grant planning permission it is also the delivery and start up of these schemes which cause significant delays. These proposals do not appear to tackle this issue.

10. Do you agree with our proposals to make decision-making faster and more certain?

No – Not enough detail is given as to how this will be achieved and if it is even practical. Additionally the cost and time implications of new technologies to be developed and then bought/used by local planning authorities are not outlined. Planning is subjective and it is difficult to breakdown the elements of a planning application into digital data that can go through a 'tick box' exercise. England has grown piecemeal over millennia and many cities, towns and villages do not follow a grid like system where zoning can be easily identified for 'data rules to be set'.

Currently each application is based on its own merits, due to the constraints of that site and the individual characteristics of the site. This ensures new development is in keeping and appropriate to its setting. How would this be digitised or machine-readable? Not enough

detail is given on how consultation responses will be received and appraised through the determination of the application.

Design standards are in place for several matters, one example is Highway Standards. However for some applications each site requires a slightly different design than that outlined in the standards to accommodate the constraints on site or of the nearby highway network. These altered designs are often acceptable once checked by a consultee. However, in the proposed new system as it reads the application would be refused as it didn't strictly meet the code/rules. How would matters like this ever be overcome? This could significantly restrict development being brought forward as the system is too rigid in it's setting of rules and applications of them.

The integration of technology into the validation submission process is sound in principle, as is the increased use of technology to increase efficiency in the administration of planning applications, however we are concerned that technology would become part of the decision making process. We do not consider the planning system should become planning by algorithm with a risk that planning decisions become an objective assessment of a subjective matter.

The proposals to automatically refund planning fees for applications should they not be determined with statutory time limits is a punitive measure and it's not clear who will benefit. There may well be good reasons, often beyond the local planning authorities' control, why decisions on applications take longer such as getting input from statutory consultees or because the information submitted with applications is poor or inadequate requiring further requests for information. Furthermore financially penalising authorities means less resources for planning authorities which surely must not be the intention of government and will hardly help improve decision making. It is in everyone's interests to see planning departments properly funded and resourced to allow for good and timely decision making to occur. To allow some automatic consents/deemed consents if there is not a decision within a set time would only risk allowing poor and/or unsustainable development to occur, and again this can not be the outcome the government is seeking.

Similarly we do not agree with proposals to refund application fees where permission is allowed on appeal. There may be valid planning reasons why an application is refused however given planning is subjective in nature it is not unreasonable an inspector may consider otherwise. It is possible such a change would increase pressure on the planning inspectorate as there could be significant money at risk and we may see scrutiny of inspectors decisions increased considerably with the potential of legal challenge. Planning decisions should be based on consideration of planning matters not financial cost to the authority.

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

We are keen to work with government to explore ways in which the current planning system can be improved. The use of technology is ever more important in all aspects of life and we support options to look at further ways in which technology can be integrated into planning. There are a number of good examples already which demonstrate planning is adopting such technology for local plans.

It is important that the technology is available and fit for purpose before any requirements are imposed on local planning authorities. With such an emphasis on a digitised local plan, will the Government provide funding for the technology required to provide a digitised local plan, along with any equipment, training and additional staffing needs, as this process will

undoubtedly produce such requirements. Who would be responsible for administering the systems and would authorities be tied into expensive licensing agreements?

It will be important to ensure that those who are not familiar with technology are unable to use it or who do not have access to the required technology are not excluded by exclusively digitising local plans.

On a final note it is important to remember that planning is an art as well as a science. The white paper seems to assume planning information can be 'data', however this may not reflect the nuances of planning as an art form.

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

It is acknowledged that the plan making process can be lengthy however it is not necessarily a result of the planning system itself. The production of plans can be impacted by a wide range of issues such as delays in infrastructure, and cross boundary strategic issues for example can hinder effective plan making.

However one of the biggest issues is the considerable uncertainty created as a result of constant changes to planning legislation and guidance. The government never acknowledge this as an issue in delays in plan preparation but changes may lead to new evidence being required or plans being redrafted to accord with new legislation or national policy. Constant changes also mean plans are more often than not effectively out of date as soon as they are adopted.

30 months is undoubtedly an extremely tight timeframe for getting a plan in place with almost 30% of the time allocated to the Secretary of State to consider the plan for adoption, which seems to be a disproportionate amount of time in comparison to the rest of the plan preparation period.

The white paper puts a huge emphasis on public engagement from the very beginning of the process, however this reformed process has far less opportunities for the public to engage - with there being an initial opportunity in Stage 1 – a call for ideas and then one final opportunity when the Plan is already written and has been submitted to the Secretary of State. It is only the latter stage where the public actually see a draft plan and this is only once it has been submitted, so there is in effect little opportunity to influence the development of the plan. Whilst the white paper talks about increasing democracy and giving neighbourhoods and communities a more meaningful voice, the proposals set out in the paper actually appear to be doing the opposite.

With regards to the particular stages of plan preparation set out in the white paper.

Stage 1: The local authority undertakes a call for sites for developers, landowners and agents. It is assumed the responses would need to be very detailed as sites chosen would be granted outline permission (or some form of undefined automatic consent of principle). A great level of information would be needed to support the submission of a site. As not all of these sites would be taken forward there is potential for a significant amount of wasted work.

Members of the public can comment on what they would like to see in the local plan but there would be limited detail on land availability, development options or strategy so it may be difficult for the community to fully engage at this stage.

Stage 2: Proposals are drawn up by the planning authority which will involve evidence gathering (which is yet to be determined as to its extent but transport modelling for example

would be unavoidable, and masterplanning for fast-track beauty). The commissioning of this work can take several months alone which doesn't leave much time to undertake the work, analysis the outcomes and use the evidence to draft a plan. It is assumed plans would also need to go through the democratic process of the council which could take a further 2/3 months. There is little actual time to develop a plan (and the myriad other masterplans, design codes etc. that need to be developed alongside it. No mention is made of the need to co-operate and negotiate with other stakeholders such as infrastructure providers. Experience indicates this is not normally a quick or straightforward process.

Stage 3: The plan is submitted to the Secretary of State for Examination and also goes out for public consultation for 6 weeks. This is the current minimum statutory time frame within Plan making, however in the overall 30-month time frame, no time has been allowed for the collation and compilation of the consultation statement that accompanies any plan at Examination. This also usually has comments from the LPA as to how they have responded to those comments received. This process can take 3 or 4 months although could potentially take much longer given the public only get to comment on the plan once it has been fully drafted and submitted, so many issues that may arise will not have been able to have been addressed earlier in the process. No time has been allowed for this in the 30-month statutory limit. If this process is to be excluded from the new system and there is no requirement for local authorities to consider issues raised on the plan this is a further erosion of public involvement in plan making and planning generally.

Furthermore at this stage if a fundamental issue is highlighted through consultation which would question the 'delivery' or 'soundness' of the plan – such as a major growth area now being unviable - there appears no ability to go back and rectify the issue given the statutory timescales and stages.

Stage 4: a 9-month period for the Plan to be examined by the Secretary of State. As previously mentioned, this is a disproportionate amount of time when considered in the context of the overall 30 months and in particular when the local authority only has 12 months to write the plan. Nevertheless the capacity of PINS would need to be greatly enhanced to deal with plan examinations in this short timescale as currently this period of time is wholly unrealistic for PINS to be able to examine a plan.

Stage 5: Finalisation. It is assumed this would also include the period in which a Council would formally adopt the Plan and therefore allowances for a Council meeting would have to be accounted for, which may not be within the 6 weeks timeframe.

The concept of ensuring a local plan is produced within a statutory timeframe is in principle sound and already in legislation. Current plans can take an unnecessarily long time to produce (although not necessarily as a result of the current system), however the time frame suggested is wholly unrealistic and needs to be reconsidered.

13(a). Do you agree that Neighbourhood Plans should be retained in the reformed planning system?

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?

It is difficult to see where neighbourhood plans fit into the propose system. With development management policies set nationally and all land 'zoned' through the local plan these issues can not be addressed through neighbourhood plans. For neighbourhood plan groups and local communities these typically are the main reasons for developing neighbourhood plans, and the elements of those plans which attract most interest. Without

those elements groups, as volunteers, may feel the development of neighbourhood plans may no longer be worth the considerable effort involved.

Neighbourhood plans may have a role in setting locally specific design rules/codes however it is not clear if there is the expertise to do this effectively at neighbourhood plan level and if groups would be wishing to pursue plans if they have this more limited role.

As above with reference to local plans, whilst the white paper talks about increasing democracy and giving neighbourhoods and communities a more meaningful voice, the proposals set out in the paper actually appear to be doing the opposite.

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 there should be a stronger emphasis on the timely build out of developments; however merely introducing different development types, by multiple builders and assuming that will solve the issue of delayed build out is naive.

Housebuilders are reluctant to work concurrently on site if it's not absolutely necessary due to the land acquisition and equalisation agreements that sit behind these large sites which are costly and time consuming.

Planning permission expiry triggers (if granted outline permission with the local plan) and options outside of the planning system should be examined – penalisation/tax implications for developers/landowners/agents for not building to an agreed timescale could be introduced to incentivise starts on site. The government ought to be looking beyond planning to resolve these concerns, and to where the real issues lie in the delivery market.

Pillar Two – Planning for beautiful and sustainable places

15. What do you think about the design of new development that has happened recently in your area?

Achieving well designed developments with their own sense of place and individuality is extremely difficult in larger developments. Highway requirements often lead the layout and initial design of most large schemes. Housebuilders are not amenable to altering standard house types to provide individuality to every development. Landscaping is an important tool in achieving a well designed development with a sense of place, making use of existing mature planting/vegetation and building around these features. This however can reduce the housing density of a site and is therefore often lost and results in a development with limited soft landscaping features and house types that can be seen all across the midlands region.

Our borough has achieved good design in some conversions and smaller sites, however this at times proved to be a lengthy process with some resistance from both developers and local communities, due to the differing opinions on what is good design. We have recently adopted a 'Good Design Guide' SPD so we are hoping this tool will allow the council to work with developers and provide only good designed development.

It is worth noting that quite often schemes of poor design quality have been developed where local decision making has been removed, in particular through the permitted development route.

A greater emphasis on design is supported and developers and housebuilders should be urged to put the value of good design central to development proposals from the very beginning – the onus should not just be on local planning authorities

16. Sustainability is at the heart of our proposals. What is your priority for sustainability in your area?

Our sustainability priority is tackling and adapting to the climate emergency. All of the items specified in the question are a bare minimum requirement in achieving this priority, as is much more, such as dealing with flood risk and extreme weather events, protecting and enhancing biodiversity, promoting renewable and decentralised energy and reducing waste. These priorities cannot be divorced from one another.

17. Do you agree with our proposals for improving the production and use of design guides and codes?

We support the focus on locally prepared design guides and codes, and the overall desire to improve design quality generally. The preparation of such documents will have resource implications in terms of time and budgets and be dependent on the right design skills being available. We would want to see what measures will be put in place to address these additional requirements.

The paper states that design guides/codes should reflect what is 'provably popular locally' and that these documents should only carry weight if there is 'empirical evidence of what is popular and characteristic in the local area', with it being demonstrated that they have been prepared with 'effective inputs from the local community'. It is not really clear what is meant by this and how this would work in practice. Design is highly subjective and there will not be one definitive answer to what is 'provably popular locally' and this may not necessarily actually reflect good design if the loudest voice is the only voice heard.

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?

In principle a design body to support local planning authorities would be central to driving forward the design agenda, as many authorities simply do not currently have specialist urban design skills available. However the proposals lack detail and understanding the potential remit of such a design body is important to understand what it may or may not be able to achieve.

The potential role of the chief officer for Design and Place-making needs to be clearly set out as to whether this would be a statutory requirement and whether it is a whole new role with additional funding made available. Many authorities will not have the resources available to support a new role.

19. Do you agree with our proposal to consider how design might be given greater emphasis in the strategic objectives for Homes England?

Yes, good design principles should weave through the operations of Homes England. The value of good design should be a principle consideration.

20. Do you agree with our proposals for implementing a fast-track for beauty?

What is beauty and how will it be objectively agreed upon? Beauty and design are subjective and there is no binary yes/no to the concept of good beauty and good design. There is a risk that layers of prescriptive design guides and codes may only act to stifle innovative design, and result in an unsatisfactory objective assessment of a subjective matter.

This proposal seems to work from the starting point that 'poor' design is a significant reason for local objection to development. Whilst it may play a role, it is very rarely the sole or main reason for concern. Lack of local infrastructure to support increased population, traffic generation and extra burdens on local doctors and schools are usually of far more concern to local residents. These issues simply can not be addressed through design guides and codes.

The white paper sets out that for sites identified as 'Growth Areas' in local plans that a masterplan and site specific design code will be required to be produced as a condition of the permission in principle[2]. The paper states that these could be developed by the local planning authority alongside the plan. Such an approach would seem to require a significant amount of upfront work for the local authorities and raise a raft of questions. Specialist design skills would be required and how would this be funded? Would there be a need for consultation with the local community and statutory consultees? Is it realistic that each growth area would require a masterplan to be prepared alongside the production of the local plan? Can all these documents be prepared concurrently – given the already wholly unrealistic timescales for the local plan? In addition if masterplans can only reasonably be prepared later on would this hold up development that could otherwise be delivered?

Further detail on the types of permitted development would be needed to allow more detailed comments. Previous permitted development such as the creation of dwellings through the conversion of offices has proved to be unsuccessful and created extremely poor quality development. This permitted development did not allow for the full assessment of the development and therefore key considerations could not be taken into account. One example of a key consideration which could not be made was the assessment of existing and proposed residential amenity, in regards to all aspects such as privacy, space standards, overlooking, and loss of light. This resulted in living accommodation with no windows/ no outlook/ unacceptable floorspace/overlooking and privacy issues with existing residents. A quicker/limited process does not mean better development and often does not mean high quality.

Allowing for an extension of permitted development to 'popular and replicable' forms of development nationally will surely lead to standardised development across England which would seem counter to the emphasis on locally determined design standards. Large housebuilders are likely to benefit most from this by rolling out conforming standard development types nationally, further eroding local variation in design.

Pillar Three – Planning for infrastructure and connected places

21. When new development happens in your area, what is your priority for what comes with it?

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[2] confusing terminology – earlier in the white paper (paragraph 2.31) it sets out that outline permission will be granted for such sites

All of the issues listed as part of the question such as affordable housing, schools and transport as well as many others, are priorities.

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?

It is acknowledged that the existing approach to planning contributions can contribute to some delays in bringing development forward, and the way it is negotiable means that often developers are not paying what they ought to be paying towards infrastructure as there is pressure on the local planning authority to approve a 'viable' development that will get built. Options to amend the existing system could be considered – for example removing the ability to negotiate contributions would provide greater certainty to the local authority, developers and local communities alike and ensure a fair contribution is made to address the infrastructure requirements arising from development. Indeed reforms to the existing planning system have made it clear viability should only need to be assessed at plan making stage not application stage. The current system is being criticised before it has been given the opportunity to work in practice.

Whilst a consolidated infrastructure levy could shorten the process of approvals and potentially capture a fair share of development value which is reflective of the current market, there are several significant drawbacks to the proposals in the white paper.

As the value of development will be calculated once the development is complete it is difficult to know at the decision making stage what the likely 'contributions' will be from the development. For the decision maker this creates difficulties in assessing whether the impacts of a development will be fully mitigated and, if the development is therefore likely to be acceptable. This actually may lead to a longer decision making process, as more time will be required to assess a range of possible outcomes for contributions on a range of different scenarios, and the lack of clarity over mitigation will likely increase local opposition to development.

The levy would require an assessment of value to be prepared for each and every development which would be liable for the levy. This is likely to introduce an element of disagreement/negotiation over inputs to the calculation, which will not make the process any more certain or transparent than the current system. We would also wish to see further details on how the levy system would be able to prevent developers ''gaming' the system to seek to reduce their financial obligations once schemes become liable. In addition it is not clear in the white paper if it is expected that the levy will be used to fund all infrastructure needs.

It is unclear how the infrastructure levy would work when paid prior to occupation of the development. Many infrastructure providers such as the NHS and Education require payment of obligations on commencement of development, due to their requirement to secure funding to implement their own business cases for additional health and education facilities in time for when the development is in use - otherwise there is a lag in facilities from the point of occupation to when they are able to put the required additional infrastructure in place. Whilst the paper suggests local authorities would be able to borrow against future infrastructure levy revenues to forward fund infrastructure there may be reluctance to do this if there is uncertainty over how much levy will be received, and when (if at all) for a development.

A levy based system would also not seem to address non-financial obligations as S106 currently does – such as travel plans, sustainable travel packages, local employment and

skills plans, and considerations around occupancy restrictions. These would need to be dealt with in some other way.

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

Contributions to development in whatever form should be set based on local evidence on viability, infrastructure requirements and affordable housing needs. The vastly varying development values across England mean a nationally determined rate is unlikely to adequately reflect this local variation. A flat national rate would significantly disadvantage less viable areas risking the provision of infrastructure and delivery of affordable housing.

The white paper does not explain or give any strong reasons in favour of why the setting of a levy should be nationalised and we oppose any further centralisation of planning and local decision making.

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?

As noted above the current contributions/levy system does not fully capture the cost of all the infrastructure needs arising from development. This is not helped by the raft of development that is currently exempt from contributions to infrastructure and affordable housing such as permitted development schemes. If a new or revised system is implemented at the least its main purpose should be to ensure the costs of development are capable of being mitigated by maximising the funding secured.

22(d). Should we allow local authorities to borrow against the Infrastructure Levy, to support infrastructure delivery in their area?

Providing greater powers and flexibility to local authorities to deliver infrastructure is supported. It is of great importance that infrastructure should be in place as soon as it is required, and as noted above this is one of our concerns with a levy payable only on occupation as this means delivery of infrastructure would come too late in the process.

However this approach transfers all risk to local authorities from developers, and unless there is certainty that development will be able to cover the costs of the infrastructure funded upfront by the local authority and that it will be paid on time, there will be reluctance from local authorities to follow this route as the lack of certainty and consequent risk may be deemed to be to great.

23. Do you agree that the scope of the reformed Infrastructure Levy should capture changes of use through permitted development rights?

Yes. Any additional dwelling has an impact on local infrastructure and it is reasonable to expect that developers who are able to profit from new dwellings to compensate for the additional strain on local services created.

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. The aim should be to secure at least the same amount of affordable housing as under the current planning arrangements and the same amount of on-site provision.

However, this should not simply look at securing the same overall number of affordable housing units. This proposal also needs to consider the mix of tenures that is secured within the overall number of units delivered and ensure that local authorities are able to continue to deliver an appropriate mix of affordable housing for rent and for sale to meet local needs.

We do not want to see a situation where the same amount of affordable housing is secured, but the proportion of properties for sale within that figure increases to the detriment of the delivery of rented units (which are often the only truly affordable option for many low income households – especially in high cost areas). This can only be achieved if the infrastructure levy is set at a level to generate sufficient income that will fund these levels of affordable housing for rent and sale. This is another reason why a locally determined levy is considered more appropriate to be able to deal with these and similar locally specific issues.

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. The "in kind" payment is the preferred option. It gives much more scope to secure units onsite and for the Council and affordable housing providers to directly influence the delivery, mix, tenure and quality of units at an early stage. The "right to purchase" approach would leave local authorities with little control over what type of affordable housing units would be able to be secured.

24(c). If an in-kind delivery approach is taken, should we mitigate against local authority overpayment risk?

Experience shows that some developments can take a long time to come forward after terms have been agreed for affordable housing contributions. Therefore, there should be provision that allows for agreements to be reviewed if either party considers that market circumstances have significantly changed. However, there would need to be clear guidelines on how parties should do this and what evidence would (and would not) be considered and how.

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. Quality needs to be consistent across all affordable housing regardless of whether it is private developer or Registered Provider led. All tenure types should be held to the same (high) standards.

25. Should local authorities have fewer restrictions over how they spend the Infrastructure Levy?

Yes Local authorities are best placed to make these decisions based on local priorities and circumstances and should have the flexibility on how it chooses to spend locally raised infrastructure levy. Particularly so as affordable housing and other previously non-infrastructure issues would be part of the proposed levy.

However we have reservations that the levy could be used to part fund council services or be used to reduce council tax. The Infrastructure levy, as the name implies, should be used to fund necessary infrastructure and if it were used for other purposes the impacts of development could not be properly mitigated. Council services, such as planning departments, should have sustainable funding in place and not rely on development coming forward.

25(a). If yes, should an affordable housing 'ring-fence' be developed?

Yes, and there should also be flexibility where on site provision is not deliverable for any commuted sum to be ring fenced for use on affordable housing anywhere in the LPA area with no time limits for spend.

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?

The lack of detail on a range of the proposals in the paper makes such an assessment difficult. Once further detail is provided such impacts may be more apparent. Nevertheless the paper is silent on issues around planning for the needs of Gypsy and Traveller accommodation. There is also no reference to access standards/provision for wheelchair access etc.

Some groups may be disadvantaged by changes to the way information on planning is disseminated – for example the use of social media/technology may impact more greatly on groups who may not be able to use it or have access to such technology.

The move towards centralisation of many aspects of the planning system such as housing requirements, infrastructure and affordable homes funding and nationally set policies means that the ability to reflect on and respond to local issues is vastly reduced. For example without local assessments of the need for different types of housing some groups may be disadvantaged.