

**Planning for the Future White Paper August 2020**

**West Lancashire Borough Council Consultation Response (October 2020)**

Pillar One – Planning for development

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

Not appropriate to answer

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

Yes – West Lancashire Borough Council is the local planning authority.

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

N/A

*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]*

N/A

*4. What are your top three priorities for planning in your local area?  
[Building homes for young people / building homes for the homeless / Protection of green spaces / The environment, biodiversity and action on climate change / Increasing the affordability of housing / The design of new homes and places / Supporting the high street / Supporting the local economy / More or better local infrastructure / Protection of existing heritage buildings or areas / Other – please specify]*

Other – as a local planning authority, West Lancashire Borough Council considers that all of the priorities listed in this question are important and a truly sustainable Local Plan and planning system must address them all as best as possible bearing in mind that some of the priorities would potentially conflict with one another. This Council also considers that protection of the Green Belt and protection of the best and most versatile agricultural land should be considered as a priority alongside the options provided.

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

Not Sure – Many of the proposals outlined in Planning for the Future could be positive and certainly making the planning system simpler would be of benefit, but ultimately whether the proposals are appropriate will depend on the detail of "how" the proposals will be achieved, as Planning for the Future provides little detail on this. As such, the Council is responding with a "not sure" as there is a real risk that over-simplification of the planning system will not achieve the aims that the White Paper has set out. The Council sets out its concerns with regard each proposal in answer to the relevant questions in this consultation.

In relation to the three-zone system outlined for Local Plans, this concept is reasonable and would make Local Plans simpler and easier to understand, but it is imperative that local authorities be able to apply distinctions within each zone as to what land-uses are allowed on different parcels of land, otherwise employment land and town centres will be undermined by too much housing, and so the economy will be affected.

This particularly applies to the "Renewal" zone, where a local authority needs to be able to distinguish between, for example, a town centre / High Street area, an industrial estate and a residential neighbourhood. "Renewal" of each of these areas would be welcome, but only for development of uses that would fit in each of those contexts and not undermine the purpose of those different areas.

Similarly, in "Growth" zones, the local authority needs to be able to demarcate areas for new commercial and industrial development separate from residential development.

Likewise, in "Protected" zones, the precise nature of the area being protected will still need to be reflected as different policies will apply, for example, Green Belt policy is different from policy in flood zone 3, and policy in an AONB is different from policy related to a protected green space in an urban environment.

As a result, the three zone system proposed would inevitably need to have a number of sub-zones and will become more complex. This is not a negative, however, as it will allow the uniqueness of each authority area to be reflected in Local Plans, while still enabling a clear zonal system with precise details of what development is, and isn't, allowed in each sub-zone.

As such, the second of the alternatives proposed in the White Paper for this proposal may be more workable, to ensure each zone is specific enough regarding the type of

development and uses allowed in a given area, either through the accompanying design code for a growth area, or the more nuanced zones in a renewal area.

Furthermore, more detailed consideration should be given to how exception policies would work in a "Protected" zone, for example the proposed First Homes exception sites, rural exception sites and the exceptions to inappropriate development in the Green Belt.

*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.]*

Not Sure – While the principle of the approach outlined in the White Paper is understandable, and its aims are laudable from the point of view of streamlining the process and making it simpler, the Council would be concerned that prescriptive, nationally-set development management policies would not necessarily be appropriate given that every part of England is different and the reason why planning applications are considered on a case-by-case basis under the current planning system is because every site is different as well. Having nationally prescribed policies may lead to a uniformity of development across the country (rather than the "beautiful" building aimed for in the White Paper) and mean that key, locally distinctive planning matters cannot be addressed properly. As a result, local planning authorities may have reasonable control on design but would potentially lose control over specific land uses, e.g. conversion of C3 residential uses to C4 HMO's. There would be no scope for a local policy on a specific local issue. This would be of significant local concern in West Lancashire in relation to HMOs.

*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.]*

Not Sure – As with other proposals, the Council's response to this question would depend on the detail of what this sustainable development test would encompass. It would certainly be welcome to replace the tests of soundness with more accessible tests that communities can better grapple with, and reduce the reliance on reams and reams of evidence studies and assessments such as the Sustainability Appraisal process, but the new test must enable an authority, communities and planning professionals to grapple with the very critical issues that fall within the concept of sustainable development in an informed way, based on robust and technical information. Given that sustainable development is a very subjective term, and can carry different meanings in different contexts, this may prove challenging to achieve in a single, consolidated test.

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

Firstly, the option of Joint Local Plans should still very much be available to local authorities under any new planning system. However, where a Joint Local Plan is not appropriate, strategic, cross-boundary issues tend to revolve around housing requirements, commuting / travel patterns, strategic infrastructure and ecological impact. In relation to housing requirements, the proposals in the Planning for the Future would remove the ambiguity over housing requirements under the current system, and so there should be very limited basis for housing requirements to be re-distributed between neighbouring authorities, which is a welcome proposal. With regard commuting/travel patterns and strategic infrastructure, these are matters which local authorities routinely co-operate on and seek to ensure Local Plans address or take account of, and so no formal Duty to Co-operate is necessary for those factors. In relation to ecological impact (because nature does not adhere to administrative boundaries), this is a more challenging and complex matter to deal with and cross-boundary co-operation is definitely still required for it, but it does not necessarily have to involve a Duty to Co-operate. Instead, the detail of how the new planning system will manage mitigation for ecological impact, biodiversity net gain and the requirements of the Habitats Regulations Assessment should be formulated such that cross-boundary co-operation on ecological matters is maintained through the new planning system.

*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.]*

Yes, but the precise methodology for that standard method must be appropriate. The Council will be making submissions in relation to the separate consultation underway on the standard method, but it is welcomed that the new method seeks to ensure the overall aim to deliver 300,000 new homes a year nationally is delivered, giving a fixed figure to work from, as opposed to the ever-changing household projections. However, while the new method is better than the existing method in this regard, there is still a predisposition of the method to require more housing in the south-east than would previously have been provided and less in the north of the country. This will reinforce inequality and the north-south divide in England.

*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 – Affordability should certainly be a factor in identifying the quantity of development to be accommodated in an area, but it is not the only factor and can lead to the aforementioned reaffirmation of the north-south divide, as inevitably those

areas with the greatest affordability issues are in the south-east of England. The use of existing numbers of households helps to re-balance this slightly, but, again, the most densely populated places are generally in the south-east (or London more specifically). This then creates a challenge for the large cities in England (especially London) as they inevitably have the highest housing requirements, but can be more constrained (relatively speaking) in relation to deliverable housing land. Ultimately therefore, the NPPF and other Government policy should be seeking to do more to re-balance the country's economy through concepts such as the Northern Powerhouse and so, alongside those direct economic interventions, ensure more housing and infrastructure is planned for in the north of England to support that economic boost to the north of England.

*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.]*

Not sure – the precise approaches for granting those detailed consents must be robust and consider all relevant site-specific and technical matters, otherwise the ambition to "build beautiful" will not be achieved, and environmental impacts will likely be greater. While the technically detailed matters that a new development needs to consider can mean an application takes longer to process, this is because such matters are complex and require diligent attention, and so the desire for efficiency and speed must not compromise making sure that developments meet all technical requirements and that the right decision is made. Any such consent process must all be able to levy an appropriate charge for applications to ensure that local authorities' costs in considering those applications on detailed matters are covered in full.

The Council envisage the proposed approach in the white paper would be very costly for the Council, with the amount of detailed, site-specific background surveys needed prior to a site being allocated at plan-making stage. It moves the costs from applicants to the local planning authority, particularly if the application fee for these faster routes for detailed consent are lower than the current application fee. As a result, the proposed timescales for plan making (30 months) are unreasonable given what would be needed, and the resource implications are severe.

Guidance would also be appreciated on whether pre-application enquiries would/could still be accommodated in this new system, as the Council considers that this important element of the planning system, which has become so widely used in recent years, should be retained to help applicants formulate appropriate development proposals.

*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.]*

Not Sure – a general presumption in favour of development would be appropriate in Renewal areas, but the subsequent new processes for granting automatic consent for pre-specified forms of development and for the faster planning application for other types of development would need to be robust and local authorities must be able to levy an appropriate charge for such applications / consents to ensure that local authorities' costs in considering those applications / consents are covered in full. Given the lack of detail on these proposals at present, the Council's response must be "not sure".

The Council is also concerned at how difficult it will be to develop a design code that covers all forms of development within a renewal area, as renewal areas tend to be so mixed in character.

Consent arrangements in Protected areas would quite correctly still need to be through a traditional planning application, but the policies for assessing such applications should not be restricted to simply that within a new NPPF, as local authorities should be able to set bespoke policies to reflect characteristics particular to their area that should be protected. These should not repeat national policy though.

Guidance would also be appreciated on whether pre-application enquiries would/could still be accommodated in this new system, as the Council considers that this important element of the planning system, which has become so widely used in recent years, should be retained to help applicants formulate appropriate development proposals.

*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 – local planning authorities are the most appropriate organisations to consider development proposals for their local area. There is also the risk that any such proposal for a new settlement could be slowed down through the NSIP route. Utilisation of the NSIP route would also harm planning application fee income for Councils, harming the sustainability of local planning authorities.

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

Not sure – as with the Council's answers to the previous questions, it depends on the detail of how the proposals would be implemented, which is not yet available. Any approach which risks "cutting corners" on key issues would not be supported by this Council, as any faster process must ensure all the technical issues in a development proposal are fully explored and resolved to the satisfaction of the local planning authority and any statutory consultees to ensure that the development is appropriate before permission is granted.

The Council is also concerned about the rigid application of the 8 and 13 week target date, as this will prevent negotiations that promote betterment in the design of schemes, and so would fail to create beautiful places. Rigid targets may also lead to more refusals and uncertainty for the developer, if it is apparent that the scheme cannot be modified in time.

The proposal to integrate validation with the submission of an application also concerns the Council. This seems to point to the fact that a national body will receive and validate applications, resulting in valid applications being forwarded to local planning authorities. This will have implications for staff in the local planning authority who currently undertake the validation of applications and customers who may not be easily able to engage with a national body who may not be easily accessible and understand the digitised process.

Whilst the idea of limiting applicants to the submission of a 50 page supporting document is a laudable aim, the Council is concerned that the information submitted will not be sufficiently detailed and robust and it will be difficult to interrogate the information to ensure all relevant matters have been considered and addressed fully. It would be very difficult to provide standardised technical supporting information and Design Guides will struggle to address every site specific issue.

Whilst a suite of national planning conditions would be welcomed, this should not prevent the local planning authority using additional site specific bespoke conditions.

In terms of resourcing, the Council would be very concerned about the proposal to refund fees where appeals are lost or the local planning authority has not determined an application within the time limits. The local planning authority will have already used resources to process the application and without security of fee income, this will undermine our ability to deliver a planning service.

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

Yes – West Lancashire Borough Council would welcome support and guidance from MHCLG in moving to such a web-based format, and would recommend that one system is created that all local planning authorities use so that there is consistency across the country.

In addition, more support should be provided to local authorities to help move planning into more digital formats, for example how the data needed to make planning decisions could be displayed digitally and in map-based software to reduce the reliance on publishing lengthy evidence studies as documents.

However, like many other authorities, West Lancashire has an ageing population, many of whom still engage with the Council by telephone, face to face and by letter.

Some will struggle to engage with the digital format and consideration should be given to how such groups can still be effectively engaged.

*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 – while the speed at which local planning authorities could prepare a new-style Local Plan would depend on the details yet to be provided on what such Local Plans would cover and how they would be prepared/formatted, 30 months seems too short, at least for the initial new-style Local Plan for each local planning authority. However, West Lancashire Borough Council acknowledges the White Paper's point that the current process for Plan-making is too long and drawn out and can lead to Local Plans being out-of-date almost as soon as they are adopted.

The other issue with a 30 month window is whether this would allow sufficient time for in-depth public consultation and preparation of detailed site-specific design codes, given that the new system is intended to focus public participation in the planning process at the Plan-making stage and is to be more site-focused. If such consultations are to be more than paying lip-service to the idea of consultation, and if deliverable and robust design codes for each site are to be developed, more time will be needed at the Plan-making stage, or more resources provided to local planning authorities to undertake the work faster.

The 30 month window would also be challenging because there is a national lack of planners with design skills, as these are areas which have been cut back by local planning authorities due to funding issues over recent years, and so there would be a steep learning curve involved for current local planning authority officers under the proposed new system.

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

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

Not sure – it is unclear how Neighbourhood Plans would fit in a zonal planning system that seeks to set development management policy at a national level and then have sufficient site-specific design codes alongside / as part of a new-style zonal Local Plan. Currently, Neighbourhood Plans do not typically set strategic policy but focus on development management / design code matters as well as allocating sites sometimes. In a zonal system such as that suggested by the White Paper, the zones would be a strategic matter and set by the Local Plan and the Development Management policies would be set nationally. As such, a neighbourhood plan would not be able to set new zones (i.e. identify new sites any more) and would not be able to set locally-specific development management policies. As such, Neighbourhood Plans could only look at locally-derived design



codes for specific sites, which would need to be prepared alongside the Local Plan. This is a very different role to that which they currently take.

*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?*

Whatever role Neighbourhood Plans could take in a new zonal planning system, to ensure they utilise digital tools a standard format should be set nationally that local councils and neighbourhood forums can then use, and to make it clear the scope of what neighbourhood plans can cover under the new 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 fundamental issue and a deficiency in the process which needs to be resolved. However, it is unclear how local planning authorities could enforce a requirement to have multiple builders developing substantial development sites, given that the majority of sites are privately-owned and the subject of sales / options between private parties. As such, this proposal would involve quite significant intervention in the 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?  
[Not sure or indifferent / Beautiful and/or well-designed / Ugly and/or poorly-designed / There hasn't been any / Other – please specify]*

Other – Design of new development in recent times has been led by volume house builders building standard house types with limited local distinctiveness. Given Government pressure on local planning authorities to meet housing targets, it has been difficult to secure design improvements and attempts to do so have not been supported at appeal. Given the proposed re-introduced determination targets and planning appeal fee refunds in Pillar 1, the Council does not see how introducing Design Codes will reverse this trend if other aspects of the proposed new planning system will reinforce volume housebuilding.

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

Other – By definition, sustainability cannot have a single priority. It is, by nature, about finding a balance between the sometimes competing priorities of the environment, social issues and economic growth. The Council's concern over the proposals in the White Paper is that they do not properly address this point, and yet a robust planning system must address all aspects of sustainability and try and find that appropriate balance between the three factors for the good of the current generation and future generations.

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

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

Yes – however, the Council is concerned that there will be a conflict between national design codes and local design codes, e.g. even though the National Design Guide recommends tree lined streets, the local Highway Authority do not consider this to be acceptable as there is a maintenance implication. Additional resources will also need to be given to local authorities to improve the production and use of design guides and codes.

*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 – local planning authorities would require support to draw up local design codes, as there is little in-house expertise in this area. However, any national body should be properly and consistently resourced to support local planning authorities in this work. Specific details on the resourcing of local planning authorities is key to the delivery of a more effective planning services and any funding should be ring-fenced for planning to help local planning authorities to recruit officers with design experience.

*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 – however, like local planning authorities, Homes England will need to recruit specialists in design as well.

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

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

Not Sure – as this proposal will depend on the detail that is yet to be worked up that would be needed to make this a reality. Planning is a subjective profession and there is unlikely to be consensus on what constitutes a beautiful design. Even if Design Codes are prepared, there will be grey areas as site specific circumstances must be taken into account. Reliance on pattern books, design codes or prior approval may result in standard forms of development which will remove variety and innovation, impacting on the likelihood of creating beautiful spaces.

### 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?*

*[More affordable housing / More or better infrastructure (such as transport, schools, health provision) / Design of new buildings / More shops and/or employment space / Green space / Don't know / Other – please specify]*

Other – all of the above. In order to deliver a sustainable development, all of the options provided as an answer to this question are needed, and no single one should be given over-riding priority unless there is an acute need for it in a specific circumstance. The Council has a concern that the proposals in the White Paper will force a choice between some of the above in specific developments / areas, and this will therefore lead to development that is not sustainable.

*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.]*

Not sure.

CIL is by no means perfect, and is more complicated than was perhaps intended. S106s can take time to negotiate, although as the recent study led by the University of Liverpool (<https://www.gov.uk/government/publications/section-106-planning-obligations-and-the-community-infrastructure-levy-in-england-2018-to-2019-report-of-study>) stated, this is perhaps 'unavoidable' delay, rather than 'avoidable' delay. A simplified levy would be welcome. However, there are concerns with the proposals for the proposed Infrastructure Levy, including the assumptions that it would help address the following issues:

*[The IL would] Be charged on the final value of a development, or an assessment of the sales value where the development is not sold, based on the rate at the point planning permission is granted:* This generates questions of reliability of expected final values (i.e. will a developer undervalue, what happens if the planning permission is not built for a few years and values increase/decrease in that time) and

complexities of calculation (what happens if house types are latterly substituted post approval – the current CIL abatement process gets very complicated in relation to varying index rates, transitional arrangements and the effects of the type of planning permission used to make any variations). Would high quality design developments pay more than a poorer quality scheme? What about sites including abnormal costs?

*Be levied at point of occupation, with prevention of occupation being a potential sanction for non-payment:* The current CIL payment trigger is commencement, and this is a much easier point to monitor than occupation. A monitoring officer (or, if transparency is truly sought, a member of the public) can easily determine whether a site has started or not. It is much harder to monitor and assess occupation – not everyone will notify through relevant processes (e.g. council tax, electoral roll) and it is not always clear 'from the outside' of the property.

There is no information provided on what "occupation" is to be defined as – for example, on a 1000 house development, is payment due on occupation of the first or 1000<sup>th</sup> dwelling, and how is this affected by any relevant phasing? What happens if one unit out of 1000 is forever left unoccupied to avoid payment of the IL (CIL can run to millions on one site so just leaving one house unoccupied would deliver a significant saving)?

Whilst 'prevention of occupation' is identified as a potential sanction for non-payment, no details of how this sanction would be enforced, or due monies recovered, are provided. Currently, under CIL, payment is due following commencement, which enables enforcement action to be taken to stop development until payment is received. Often the threat of stopping development is enough to generate payment. However, under the IL proposals, this 'threat' of enforcing payment would not exist because the payment would only be due upon completion of units, meaning LAs would need to pursue unpaid due amounts via legal action – creating additional costs, time and resources.

Requiring payment at later stages of a development build, also increases the risks for LAs with regards borrowing for infrastructure delivery. Often significant infrastructure needs to be delivered upfront, or alongside development, not after. There is a lack of information from the government with regards where/who this money is borrowed from, and at what rates of interest / repayment plans etc.

Payment should remain due at the point of commencement, subject to instalment periods.

*Include a value-based minimum threshold below which the levy is not charged, to prevent low viability development becoming unviable, reflecting average build costs per sqm, with a small, fixed allowance for land costs. Where the value of development is below the threshold, no levy would be charged. Where the value of the development is above the threshold, the levy would only be charged on the proportion of the value that exceeded the threshold:*

Concern relates to how the threshold is to be set, as there is insufficient detail provided as to how the IL flat rate would be calculated, and how this would affect viability. Critically, viability varies at a sub-local level, with different parts of the LA

area affected by different viability rates – there is no detail as to how these differences would be identified and calculated at appropriate lower levels.

It is acknowledged that low value development can be rendered unviable through the imposition of a levy, although that development can still have impacts on infrastructure. In areas of poor viability, where no IL could be charged, and the introduction of the IL removes the ability to secure infrastructure through planning obligations, how would necessary infrastructure be secured, including that to address site specific needs?

For example, as a result of a new development site coming forward, extra capacity is needed at a local secondary school. Under S106, the LA could request this site specific need through a planning obligation. Under the reforms, the cost of this would be collected via IL. However, not all areas will be able to support an IL – so how is this need now to be funded? And S106s make an unacceptable development acceptable – so from the developers perspective, without a S106 to secure an education contribution, how are they now able to get planning permission? Even where IL is charged, and collected, the education need now competes with many other equal needs across the LA area / development sites, and its likelihood of delivery will be dependent on the level of IL receipts generated and all other competing projects.

*Provide greater certainty for communities and developers about what the level of developer contributions are expected alongside new development:* Current CIL Charging Schedules can appear simple, but by the time you've factored in indexation, Neighbourhood CIL splits dependent on whether there is Neighbourhood Plan or not, splits across parish areas, parish capping, Neighbourhood CIL payment transfers across financial years, abatement, transitional arrangements and the various exemptions granted through the regulations, it's not a clear, transparent or 'certain' process. Current reporting requirements are too onerous and complicated, skewing and confusing information. Any new IL should ensure it is simple enough for communities and developers to understand and be easy to manage and report.

*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]*

Locally – the Council could not support a national rate as there is little information in the White Paper about how this would work, and it is clear there is much variety in viability rates across the country. Different parts of a district can have different levels of viability; how much more so is there between different parts of England?

An IL should be led by information on land values / development viability which vary by (low-level) locality and use. For example, financial returns on residential uses are typically expected to be higher than other land uses, but this may be affected by the former use of the land or condition (brownfield/greenfield) and the local housing

market. As such, an Infrastructure Levy's rates should be set locally to reflect local circumstances.

*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.]*

More value. Although this should be informed by local viability evidence and would depend on what an area's current CIL charge / affordable housing policy is.

Ultimately, landowners see a remarkable return on land value when a planning permission is granted compared to the existing use value, particularly if the site is greenfield and the planning permission is for residential. More of this uplift in land value should be captured by an Infrastructure Levy to enable greater investment in infrastructure, affordable housing and local communities.

If affordable housing can no longer be secured through planning obligations then the IL should at least capture sufficient value to fund i) that affordable housing which would have been secured through planning obligations AND ii) that additional value which would have been secured through any CIL / other obligations. Otherwise, insufficient values will be created with which to fund necessary infrastructure and affordable housing, and local authorities will be forced to choose between the two, meaning that developments will not be sustainable.

*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 – However, there is risk in this for local authorities, depending on how the IL is calculated and implemented. To help reduce this risk, the point of payment by developers should be commencement of development, not occupation, or possibly captured at the point of land sale, directly from the landowner.

*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 – changes of use can have an impact on local infrastructure and therefore should not be exempt from contributions. However, the current process of CIL Notice of Chargeable Development does not work well – there is too much reliance on the developer to notify changes through PD, or for the local planning authority to identify potentially liable developments through prior-notifications, which then often

lack the information necessary to calculate a charge. Requiring developers to submit IL information, as a validation requirement, with their prior-notification would allow LA's to better ascertain and capture charges.

There are no details on how the IL would work to capture uplift in land value (either upwards or downwards) arising from a change of use. Different start and end uses would vary the charge, as would development on brownfield/greenfield sites. There is no information on what uses the charge would be levied on – all or only some use classes, nor how this would be decided?

*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 – ideally more affordable housing should be delivered (not less as the proposed reforms seek by raising the threshold at which affordable housing is required).

However, this Council feels very strongly that affordable housing provision should not be merged with an Infrastructure Levy. Affordable housing is not infrastructure, it is a range of housing tenures that are specifically intended to meet identified affordable housing need.

While the White Paper proposals seek to ensure some affordable housing is provided on-site (resulting in a deduction of IL received from those developments that do so), it shifts the onus onto local councils to deliver affordable housing using financial contributions from the IL. This will ultimately cost more to provide a similar amount of affordable housing, with local authorities (or others acting on their behalf) having to identify and purchase land which is affordable and suitable for building affordable housing on, the additional construction costs of establishing a separate construction site(s) and additional competition for skilled labour for constructing new homes, something which is already in short supply, driving up costs for that labour.

It is also important to note, that the existing proposal assumes there is local authority capacity and an appropriate skillset to undertake or co-ordinate the use of IL to deliver affordable housing. It will be inevitable that the delivery of affordable housing will slow down and the affordable housing numbers achieved, in our opinion, will be less than those numbers that would be achieved under the current system, due to the loss of economies of scale that an on-site contribution would provide.

Furthermore, those existing economies help subsidise the delivery of rented affordable housing which would likely be more challenging to deliver if the current proposal was introduced, therefore meaning that the provision of increased Homes England grant funding for genuinely affordable homes to rent may become all the more important going forward.

It is unclear whether it is proposed that any IL received in lieu of affordable housing on a particular application site will be expected to be ring-fenced for the development of affordable housing in that immediate locality or whether the IL received for affordable housing will be pooled and spent on sites perhaps located somewhere else in the local authorities administrative area. If the latter, then the local community located nearest to the application site may have concerns that an affordable housing obligation, brought about by virtue of a development site in their area, is not providing the full affordable housing obligation in their locality. Conversely, if the expectation is the former, then the funds received, will likely be insufficient to develop a viable affordable housing scheme in the general locality of the application site. This helps to demonstrate why financial contributions in lieu of affordable housing are not the most appropriate solution in most parts of England.

The White Paper makes no mention of broader investment in social housing and provides no detail on the role of local authority-led housing delivery. The proposal does not seem to take account of the fact that providing affordable housing off-site also reduces the ability to mix housing tenures within communities and provide "tenure blind" developments. This is not sustainable planning.

This Council is concerned that the proposal as it stands does not provide enough details to give comfort that, in the absence of a Section 106 agreement, affordable housing of the right mix of tenures, delivered to the right quality and in the right places, will be achieved.

*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.]*

No – affordable housing should be secured separately from the proposed Infrastructure Levy.

*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

*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.]*

Not sure – this is unlikely to be necessary where on-site affordable housing provision is transferred to a Registered Provider, but where (for example) discount market



sales are handled by the developer themselves, they must be required to ensure the discount market product is the same as the market housing product. It would also depend on how much ability the local authority has to require a certain mix of affordable tenures, to ensure all affordable and specialist housing needs are met.

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

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

Yes – the IL should be spent on infrastructure only (not affordable housing), but the range of this should be more flexible so as to allow use on a wider range of schemes etc. It is thought an 'excess' of IL will be unlikely for most local authorities once core infrastructure obligations have been met. The IL should not be used for things like reducing council tax payments - IL would be better spent on funding infrastructure improvements.

It is noted that the Government intend to retain the 'neighbourhood share' to incentivise communities to accept development. A number of research studies have shown this to be ineffective, and CIL does not encourage communities to accept development. Moreover, in the majority of cases, Neighbourhood CIL is not being effectively spent (often because the amounts collected in a given area can be very small) and this simultaneously diminishes the amount of revenue that local authorities have to spend on infrastructure delivery. It is strongly suggested that the neighbourhood share should not be given to local councils – instead the Neighbourhood CIL share should be retained and ring-fenced for spending in the community where the development took place but managed by local planning authorities in conjunction with greater community consultation – for example, utilising crowdfunding schemes to gain additional funding to top-up the often small amounts of Neighbourhood CIL collected in an area.

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

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

Yes – if affordable housing is to be secured solely through IL (though that approach is not supported by this Council), a certain (minimum) proportion of IL should be ring-fenced for affordable housing delivery to avoid competition with other projects/needs. This will, no doubt, create greater complexity in the administration of the levy, in terms of further apportionment of receipts. For example, how will the neighbourhood share relate to any monies ring-fenced for affordable housing, or payments in kind for affordable housing? Similar technicalities relate to how affordable housing provision will be offset against the levy.

However, such a ring-fenced approach may result in insufficient IL be collected for infrastructure (as opposed to affordable housing), hence why this Council believes

affordable housing provision should be required separately from the IL, and both based on locally set requirements.

### Equality Duty

*27. 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?*

Ultimately, the proposals in the White Paper leave many questions to be answered over details of how the proposals would be implemented, and this gives rise to concerns that the benefits (or consequences) of a new system would not be felt equally by all. However, aside from ensuring sufficient provision for the elderly, disabled and certain protected ethnic groups (e.g. Travellers), planning decisions and development do not tend to impact people with protected characteristics differently from other groups. The absence of any reference to Travellers in the White Paper is concerning, especially as planning for this protected ethnic group can be extremely challenging.