

Response: Planning For the Future White Paper Consultation

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About the District Councils' Network

The District Councils' Network (DCN) is a cross-party member led network of 187 district councils. We are a Special Interest Group of the Local Government Association (LGA), and provide a single voice for district councils within the Local Government Association.

District councils in England deliver 86 out of 137 essential local government services to over 22 million people - 40% of the population - and cover 68% of the country by area.

District councils have a proven track record of building better lives and stronger economies in the areas that they serve. Districts protect and enhance quality of life by safeguarding our environment, promoting public health and leisure, whilst creating attractive places to live, raise families and build a stronger economy. By tackling homelessness and promoting wellbeing, district councils ensure no one gets left behind by addressing the complex needs of today whilst attempting to prevent the social problems of tomorrow.

District councils have helped lead the local humanitarian response to the Covid-19 crisis, keeping the planning system going throughout and have now turned their whole place effort towards both the ongoing management of the pandemic, as well as the recovery. As planning authorities and guardians of place, district councils are not only planning for today but setting the strategy towards tomorrow - working with communities to build places and create green, resilient and inclusive growth and jobs in the years to come. Stability and certainty are needed as the industry adapts to this new normal, and the unknowns of the coming years.

Response from the District Councils' Network

The DCN welcomes 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. We look forward to further engagement and conversations with the government on the future of the planning system. However, we do not agree that radical reform of the planning system is required to achieve the objectives set out in the white paper.

It is the housing delivery system that is broken, not the planning system. The government wants to deliver more homes but provides no tools for councils to ensure delivery or incentives for builders to break their absorption rate delivery models.

Instead the white paper, which seems disconnected from the realities of delivery, removes community influence and creates undeliverable new targets that set us all up to fail, which risk unintended consequences of more land speculation, less certainty for investment, and less diversity in providers and products.

We accept that the planning system does need some change – the local plan process needs some reform, more effective engagement with a wider spectrum of the public is needed and integrating the best elements of technology to not only streamline the planning system but make it more user friendly. All of these elements can be resolved through changes to the current system. The paper seeks to remove much local democracy from planning, ignores many fundamental practical realities and does not in any way seek to address the delivery of development which will remain beyond the control of local authorities.

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 sought to make the system more complex, and more remote from local democracy and decision making – reducing the trust of the public in the system.

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 the specific development proposals that will impact them, and the ability to produce meaningful neighbourhood plans.

Key Messages

- **Delivery**

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. For instance, one district tells us they have 6000 existing permissions where the market is not building out. 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 that 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 taking the blame for the failures of others.

The government needs to put more emphasis on developers not bringing sites forward. Local authorities should be given greater powers to intervene where the market is failing – either allowing them to bring sites forward themselves through a more effective CPO process and financing/funding system, or to pass sites on to more willing developers perhaps with a focus on SME builders. Local authorities or the government should have the power to impose penalties on developers that don't deliver, such as charging council tax on properties that remain unbuilt after a specific period of time, say 18 months.

The country has not seen 300,000 homes built in one year since 1974, and this achievement was in itself due to councils delivering 40% of housing and was not sustained year after year. We do not believe a reformed planning system alone can achieve this and there are too many drawbacks to the system as proposed in the white paper. The most effective way to boost housing delivery is to build out sites that have permission to build. We recommend the government revisit the Letwin Independent Review of Build Out (2018) - particularly the conclusion that market forces alone will not deliver enough homes and strengthening the role and powers of local authorities in land assembly.

- **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 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.

- **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, development management policies and levies will not respond effectively to local circumstances, will further erode local democracy and only increase the remoteness of planning from the public.

- **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 therefore 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.

What we want to see

Successful and sustainable placemaking must involve all stakeholders from an early stage and throughout. Those elected locally to represent the immediate community they serve are well placed to deliver on the place making expectations of their constituents. This means that planning decisions should be taken locally.

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. Finally it is acknowledged that the local plan process has to be streamlined in some way, although any reform should retain the plan as central to the planning system.

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

No planning system will work effectively unless it has the resources and skills required to make it work. Many of our members express concern around difficulties to recruit and retain planners in local government against the competition and resource of the private sector. Many districts have lost design skills in recent years and there is a real skills gap if design is to be moved higher up the agenda. 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?

Crucially the system requires political will to allow it work, without constant criticism and endless reforms. Now is not the time to radically reform the planning system as this will lead to many 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.

Our detailed responses to the questions follow.

Pillar One – Planning for development

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

We would refer you to individual district responses.

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

2(a). If no, why not?

The DCN represents 187 district councils across England.

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 crucial to maintaining its openness, transparency and credibility. We would support a range of communication methods, including the use of social media/online facilities, as well as more traditional forms of communication so that authorities are able to reach a broad range of different groups in a timely and efficient manner. Local authorities should have discretion to utilise the most appropriate methods to meet the needs of their local areas.

Whilst proposals in the white paper may make it easier to access plans it does not necessarily follow that this will increase the quantity and quality of public involvement. As we comment on in detail later in our response we feel the proposals in the white paper as a whole will have a negative impact on the ability of the public to participate effectively in the planning system.

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

We would refer you to individual district responses for detailed comments, however in general we would wish to see a sufficiently resourced planning service that retains local democracy at its core with important decisions determined locally.

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

First and foremost, we support a plan led planning system and we consider that there is the scope to simplify local plans, however there is the potential to do this within the existing planning system framework.

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. Given that the white paper proposes fundamental reform of the planning system we have reservations that no proper 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 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' 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 would be helpful.

The proposals set out that all 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 functioning of sub-areas and this is one area where we would welcome further clarification. Sub-areas would allow for a finer grained approach to differing areas however this could become particularly complex if they are to represent the very diverse range of land uses/types and developments within our cities, towns, villages and countryside, along with the rules and parameters that it is assumed would need to be set for each sub area. As all land will be zoned it means the local plan would need to assess every street and small site to assess which of the three zones/sub areas they should be placed into, and this would seem highly resource intensive and 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. This inflexibility could create delays in the system and in sites coming forward.

There is very little mention of land uses other than housing in the white paper. This raises the question if the proposed system has been fully thought through in terms of the aims and objectives of the wider planning system, 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 really matter what system is in place - unless local authorities are given greater powers to influence delivery or the government looks to reform the delivery market itself. Merely allocating more land for housing will not, of itself, lead to more houses being built. To assume the revised system as envisaged by the white paper would automatically increase delivery is therefore not realistic.

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 policies can not necessarily 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 (in general it has been some years since this ceased to happen) but are expanded upon to give local context such as affordable housing needs, type and tenure design requirements and

employment needs. 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 policies 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 policies currently are – based on sound evidence, justified and subject to scrutiny? These details are lacking from the white paper.

The proposal 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 DCN would therefore broadly support the second alternative option set out in paragraph 2.16 of the White Paper – maintain the current system of allowing local Development Management policies, with the exception of precluding basic repetition of NPPF policies (although see our comment above on local policies which expand/qualify NPPF policies).

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 clarity on this before providing a definitive opinion.

Nevertheless, there is potential scope to streamline the current approach, and we would welcome the opportunity of more detailed discussion on this matter. However, we consider reform should not be done to the extent that the tests lose their purpose or leave 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 this full range of sustainability considerations.

Similarly we would want to see more detail on changes to the assessment of deliverability, and this is an area which could be simplified. An approach could be that 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 has been successful in some areas however in others it has simply failed to create a framework for effective cross boundary co-operation. As it stands, without

the duty to co-operate there would be no formal mechanism to address strategic/cross boundary matters. We would particularly welcome being involved in further discussions on how strategic cross boundary matters could be addressed effectively.

A key issue that has to be considered at the strategic scale is infrastructure. There could be a role for some form of Strategic Infrastructure Plans at the regional or sub-national level to co-ordinate the proposals of the various infrastructure agencies. For planning authorities, meaningful input from some infrastructure providers is difficult to secure so it would be very helpful for requirements to be formalised in some form of infrastructure plan which would give greater certainty in the preparation of local plans.

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. We would welcome involvement in discussions around establishing housing needs and requirements.

It is not set clearly out in the proposal what the method will 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 method 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. The paper refers to the 300,000 homes housebuilding target. 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 direct housing to 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 requirements. 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. 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 imagine there will be significant disagreement on which constraints should be considered and the extent to which they may constrain housing growth and delivery

The approach to setting a housing requirement figure presented is overly 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. Research and analysis from consultancy Lichfields has identified that some authorities are potentially facing increases in housing need close to – or even in excess of – 100%. Especially in some areas of lower values, where there can be only limited competition for land amongst larger housebuilders, it is wholly unrealistic to assume that such large increases in housing will actually be

deliverable. Not making allowances for this would simply be setting up some local authorities for future Housing Delivery Test “failures”, and risk further unplanned development.

The reverse may also apply in some areas, who might wish to set a higher figure to help 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 and based on local policy and priorities. We do not support 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 white paper is not clear on how the extent of existing urban areas will be considered, other than a limited 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 – for example, some are located on the coast, or tightly bound by (say) an AONB and/or flood risk. A centrally dictated one size fits all approach is therefore inappropriate.

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 MHCLG¹ that this is not necessarily what is currently known as outline permission. 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 less responsive to change and remain so until they are reviewed.

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 can affect the mindset of landowners and compromise development viability. An ‘in perpetuity’ (at least for the lifetime of the Local Plan) 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 in the existing system.

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

Because of the uncertainty of 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 will be left for later detailed consent it is not clear that this will actually save time in the long run in granting permission,

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

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.

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 are 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 possibly not the best term here 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.

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?

A further point is that, irrespective of the envisaged clarity of messaging, some individuals will undoubtedly misunderstand the term 'protected' as meaning "no development" and this will cause predictable difficulties. For this reason, even if the decision is taken to retain the areas which are neither 'growth' nor 'renewal', a different term such as 'constrained' may be more appropriate.

Overall the white paper proposals seem to increase complexity in the system by establishing a range of different ways of achieving planning consent, depending on the type of area or zone. A criticism of the current system is that it is complex and difficult to understand, however these proposals do not seem to address this and perhaps are quite likely to have the unintended consequences of reducing transparency and community engagement.

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 can 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.

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. Any reforms must be backed by sound reasoning and evidence to justify reform.

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

The use of technology to streamline the administration aspects of planning – such as the validation of planning applications is supported, as is the use of standard datasets, and templates for planning applications and planning notices. Of course these elements can be incorporated into the existing system and this is already being done for example standard data collection for brownfield registers and 1APP.

With regard to the further use of technology, it is in everyone's interest to have an efficient planning system however not enough detail is given as to how this will be achieved and if it is even practical. Experience indicates that software packages never offer the complete solution and one single package may not be suitable for all local authorities. Additionally the cost and time implications of new technologies to be developed and then bought/used by local planning authorities are not outlined. Authorities will need to be given time to implement new systems, migrating over from existing systems which must be considered. Before new technology requirements are brought in for local authorities to comply with the technology and resources must be in place, and the technology has to be fit for purpose. As local authorities will be implementing these new systems it is important that they are involved in future discussions around how technology will be integrated into planning.

We would not support proposals that seek to automate the decision making process on planning applications. Such proposals risk planning becoming a tick box exercise and it is difficult to see how this would work when planning is frequently a subjective matter. Technology should not form part of the decision making process with planning becoming

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 within statutory time limits is a punitive measure and it's not clear who will really benefit in the long term. 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. Particularly for larger and/or more complicated applications, agreed extensions of time can often help lead to improvements in the proposal/key issues being addressed and amendments consulted upon. At best this can mean an application then being approved (or recommended for approval by the Planning Committee) and at worst some of the areas of disagreement might be able to be resolved, narrowing the areas to be addressed/considered in an amended application or appeal.

It is inevitable that, if automatic refunds are introduced, it will lead to a significant increase in the refusal rate by local planning authorities. This was the position some years ago before welcome pragmatism was introduced to allow agreed extensions of time to "count" in the determination statistics. DCN member councils do not want to be in a position of refusing applications that, for want of a few extra weeks' work to address outstanding issues, could be approved. In an ideal world all applications received would be complete, with all necessary information attached and all key issues addressed. Unfortunately, local planning authorities have to deal with the world as it is, not as they would like it to be, and poor-quality applications – and applications through which issues arise unforeseeably – will continue to be a reality. In addition, an increased rate of refusal would lead to further pressure on the Planning Inspectorate; whilst the time taken to negotiate improvements to an application (through an extension of time) is often measured in weeks, even a simple appeal can take many months to reach a final decision.

Furthermore, financially penalising authorities will reduce resources for planning authorities which surely cannot 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, or increase the rate of refusals, and again this can not be the outcome the government is seeking.

Similarly, we do not agree with the proposal to refund application fees where permission is allowed on appeal. There are, in the vast majority of cases, valid planning reasons why an application is refused. However, given planning is subjective in nature, and that new material considerations may emerge during the timescale of an appeal (especially if the appeal takes a long time), an inspector may – quite legitimately – reach an alternative conclusion to the local planning authority. This does not automatically mean that the local planning authority was wrong to refuse the application; the Courts have made clear, in many different cases, that the decision-maker (council, Inspector or Secretary of State) has a wide degree of latitude in the exercise of 'planning judgment'. In any case, inspectors already have the power to make awards of costs where councils (or, for that matter, applicants) are deemed to have behaved "unreasonably" in the determination of the application and/or during the appeal process. There are also concerns that the public perception of the planning system will be adversely affected by the threat of planning fees being returned.

Were such a change to be made – despite the DCN's strong concerns – it would increase pressure on the Planning Inspectorate as there would be enhanced scrutiny of inspectors' decisions, with the potential for more legal challenges. Planning decisions should be based solely on consideration of planning matters, not the potential financial cost to the authority.

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

As with the answer above we are keen to work with government to explore ways in which the current planning system can be improved and we would welcome such discussions. 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 technology for local plans and these are likely to be flagged up in the responses of the individual local authorities to this consultation.

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 or 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 fully 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?

Local authorities should be striving to produce local plans as expeditiously as possible and we would welcome discussions on how improvements can be made in this respect. 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 all hinder effective plan making.

However one of the biggest issues is the considerable uncertainty created as a result of constant changes to planning legislation, policy and guidance. The government never acknowledges 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. An approach to mitigate against this may be to allow local authorities to produce a plan based on the legislation, policy and guidance in place at the time it formally embarks on a new local plan, so that a plan can be produced in the certainty that it won't have to respond to sudden changes in legislation halfway through the process. This would certainly be a way of speeding up local plan production.

30 months is undoubtedly an extremely tight timeframe for adopting a plan particularly with almost 30% of the time allocated to the Secretary of State/inspector to consider the plan for adoption. This 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 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 large amount of information would be needed to support the submission of a site and 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). 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 rarely a quick or straightforward process.

Stage 3: The plan is submitted to the Secretary of State for Examination and 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 authority 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. There is no mention of a main modifications procedure – this would help to allow sensible and reasonable changes to be made to the plan in the examination stage.

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, and current plans can take an unnecessarily long time to produce (although not necessarily as a result of the current system), however the timeframe suggested is wholly unrealistic and needs to be reconsidered. Whilst the DCN would support measures to minimise the time taken to prepare local plans this set timescale is too inflexible to respond to unexpected events such as new legislation or policy, and it appears that the 'loser' in the process is the public who would have a much reduced role in plan production.

An alternative approach could be for a strengthened approach to existing local development schemes – perhaps some form of service agreement with the Planning Inspectorate which will set out a process and timescale for the whole plan development at the outset, agreed by the planning authority and the Inspectorate. Such an agreement could be revised, in agreement, to respond to unexpected events and issues which may arise during the plan process. This would provide clarity and certainty in the process (for the planning authority, Inspectorate and the public/stakeholders) without penalising planning authorities for events entirely outside of their powers to control.

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 how neighbourhood plans (as they currently operate) would fit into the proposed new system. With development management policies set nationally and all land 'zoned' through the local plan, these issues cannot be addressed through neighbourhood plans. For neighbourhood plan groups and local communities, these are typically 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.

On a wider note, the white paper makes no reference to the role of town and parish councils in the planning process (other than neighbourhood plans) and we would welcome further clarity on what role the government sees them playing in the planning system in the future.

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?

On a general note the government should be focusing much more attention on the delivery of development. Merely allocating more land will not by itself increase housing delivery. There are significant failings in developers bringing sites forward once sites have been

allocated and/or permitted and these issues are normally beyond the ability of planning or local authorities to influence - yet it is the local authorities who are penalised for non delivery. This is an unacceptable situation that needs to be addressed, and any reform of the planning system must sit alongside reform of the delivery system.

Specifically, 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.

However quickly local plans are produced and planning applications determined, it is still the responsibility of landowners and developers to implement their schemes and bring properties onto the market. Local authorities should therefore have the ability to step in and take on land not being delivered and either have the powers to deliver the site themselves or pass it onto more willing developers – potentially with a focus on SME builders.

Planning permission expiry triggers (if granted outline permission with the local plan) and options outside of the planning system should be examined – such as penalisation/tax implications for developers/landowners/agents for not building to an agreed timescale could be introduced to incentivise starts on site. The government should also 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?

We would refer you to individual district responses however 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.

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

We would refer you to individual district responses, however it is noted the question seems biased towards environmental sustainability. Environmental, social and economic considerations are inextricably linked and interwoven into the concept of 'sustainability' and social and economic considerations should be given equal weight alongside environmental concerns.

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 and we would like to be part of any discussions on the issue of resources.

It is not clear how guides (which suggest subjectivity) would work in a rules based objective system. For example it is not possible to have a fixed rule on building set backs and then encourage variety of setbacks in a guide. This is an example of why rules based systems remove creativity. Codes might only work if they are rules/objective based. The idea of design guides suggests some local control but in practice could be of very limited purpose. We would welcome further clarity on the role of design guides and how they are anticipated to operate in practice.

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 particularly if the loudest voice is the only voice heard.

Just as important as to how a building looks, though, is how it functions and performs in its environment. Energy and water efficiency, car-parking, cycle spaces, green spaces, connectivity to adjoining areas and how it 'relates' to surrounding buildings, townscapes and landscapes are all vital considerations and it is critical that these are not sacrificed on the altar of narrower (and more subjective) concepts like "beauty".

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 important to drive 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. It's unlikely that many authorities will have the resources available to support a new role however in principle we support the recognition of the importance of design.

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 an important 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. As noted above it is a concern if other standards, and compliance with policies – such as amenity space, highways standards should be relaxed for schemes which exhibit ‘beauty’.

Indeed there ought to be more emphasis on the quality and functionality of development rather than just beauty, such as homes that are energy efficient, that have enough space for the diverse needs of all residents – to create homes and places that encourage healthy lives physically and mentally.

Beauty/good design and fast-tracking do not sit comfortably with each other. Good design frequently takes time and is an iterative process – all too often the architect of a building focuses too much on the function and form of the building alone (frequently working to a client brief with clear requirements), rather than considering the building in its wider environment and what might be ‘best’ for that particular site. The unintended consequence of this ‘fast-track’ approach, particularly without substantial resourcing of local authorities, may in fact delay delivery and place greater risk of unplanned, poorly designed schemes coming forward.

This proposal also 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 cannot simply 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 principle². 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 raises 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 be reasonably prepared later on would this hold up development that could otherwise be delivered.

The DCN have strong reservations of the existing permitted development rights system. Allowing for an extension of this 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. Furthermore existing developments created through permitted development rights have tended to be the least successful in terms of design and quality of living environments – internally and externally.

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?

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

We would refer you to individual district responses.

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 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. Clearly this is unlikely to be realistic and there will be a need for ongoing government funding for infrastructure to support growth.

It is unclear how the infrastructure levy would work when paid prior to occupation of the development, rather than as currently on commencement of development. Many infrastructure providers such as the NHS and Education Authorities 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 white 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, considerations around occupancy restrictions and the securing (and phasing) of open/play space. These would need to be dealt with in some other way if S106 were to be phased out.

Again we would wish to be part of discussions around how contributions from development can be most effectively secured and that would seek to mitigate as much of the impact of that development as possible.

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 locally based on local evidence on viability, infrastructure requirements and affordable housing needs. The vastly varying development values across England mean a nationally determined rate cannot even remotely 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 provides no information or clarity on how areas of low viability and value would be able to address infrastructure needs that development could not support contributions to through the levy due to the lack of viability. This is critically important as otherwise areas will be left behind with inadequate infrastructure. An option could be a national system that redistributes some levy funding from higher value areas although this is not likely to be popular in those areas, and in any event could mean those areas would be left with insufficient funding themselves. An alternative option would be direct government funding to lesser value areas.

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

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 too great. A way forward may be for government to underwrite or guarantee such borrowing to reduce the risk for local authorities and to allow up front infrastructure funding. In addition loans should be provided at very preferential rates otherwise again borrowing may be seen as too risky/not value for money for local authorities.

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

The DCN does not support the existing permitted development rights and consider development should be properly assessed through the planning application process, where infrastructure and affordable housing needs can be fully assessed. Notwithstanding this if some permitted development rights are to remain then the development created should be subject to the levy, so that infrastructure needs arising from the development can be addressed and affordable housing secured. Currently 'existing use' credits would prevent Levy being raised, so this would need to be reformed.

Whilst the DCN is supportive of self-build and custom-build developments, once again it is important to state that the CIL (and proposed Levy) exemption results in a significant loss of income for councils across England. The builders/occupiers of self-build and custom-build homes generate the same broad infrastructure requirements as those in new 'standard' homes. Self-builders already have other financial advantages over 'normal' housebuilders, such as some VAT reliefs. Despite the white paper stating that this exemption will be maintained, the DCN would urge that self-build should be subject to a level of levy, albeit with the potential for this to be at a reduced level should that be considered appropriate.

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 to maximise the 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.

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?

Local authorities should have flexibility in approach to allow for site by site consideration however overall the in-kind approach is likely to be preferred. This approach involves the authority setting down the form and tenure of the affordable housing units to be provided and

the units will then be purchased by an affordable housing provider at a discount on the market rate (with this notional discount being offset by an equivalent reduction in the amount of infrastructure levy that the developer has to pay).

The “right to purchase” approach is mentioned in the last paragraph (slightly confusingly it is referred to as a “further” approach rather than an alternative) and seems to take it outside of the levy. It would instead give the authority or a nominated affordable housing provider the opportunity to acquire a set proportion of units (the proportion set by Government) and the developer having discretion over which units would be sold. The authority could use infrastructure levy funds to pay for the purchases.

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” idea 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, and if the value of the affordable housing is higher than originally projected (which would be caused by factors outside the direct control of the authority, such as competition between Registered Providers driving up the price offered), then it would be unfair for the relevant authority to ‘lose out’.

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 Register Provider led. All tenure types should be held to the same (high) standards. Any Affordable Housing delivery should be required to meet the standards that are set down for affordable housing providers via Homes England/Regulator for Social Housing for the construction on new units.

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.

The DCN has 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. It is considered very unlikely that many authorities would be in such a position – infrastructure costs are considerable, constant and rising. However, if there was such a scenario, it would seem extremely unfair that some authorities were able – by virtue of very high land prices – to spend money on non-infrastructure items, whilst other authorities – in lower value areas – were not able to raise even close to their infrastructure requirements from the new Levy.

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

This should be for local authorities to determine based on their own priorities and aspirations based on an assessment of local considerations.

However a key question is what rate of levy authorities will be able to charge. For each site the local authority will have a single overall levy figure and will have to balance how much of that figure it wants to spend on affordable housing and how much it wants to spend on other infrastructure requirements. If the levy income is not enough to deliver local priorities including affordable housing, then this does raise the risk that affordable housing delivery could be marginalised in some areas due to other pressing local priorities. Ring-fencing could help to off-set this, but does not address the central problem if there is simply insufficient levy income to address the range of local infrastructure needs. Therefore these decisions should be locally determined.

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.