

FOLKESTONE & HYTHE DISTRICT COUNCIL

CONSULTATION

‘Planning for the future’

Folkestone & Hythe District council responses

General questions

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

District Council response:

No comment.

- 2(a) Do you get involved with planning decisions in your local area?

[Yes / No]

District Council response:

No comment.

- 2(b) If no, why not?

[Don't know how to / It takes too long / It's too complicated / I don't care /
Other – please specify]

District Council response:

No comment.

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]

District Council response:

No comment.

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]

District Council response:

The priorities for the district in the council's emerging Corporate Plan are: a Quality Environment; Quality Homes and Infrastructure for the Future; Excellent Community Services; and A Thriving Economy.

Pillar One – Planning for Development

Proposal 1: The role of local plans should be simplified

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

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

District Council response:

The principle of simplifying the process is supported but the council has significant concerns highlighted throughout the responses to these questions.

There are outstanding questions that the White Paper has not addressed, such as the definition of Sustainable Development or what national policies there will be and how far local codes could deviate from these. In addition further clarity is required as to situations where the Local Plan and the Design Codes are not produced at the same time: could development go ahead before the codes are in place?

If district-level Local Plans are no longer to have general development management policies, it is unclear what implications this will have for other plans, such as county-level Minerals and Waste Plans or, for coastal areas, Marine Management Plans.

The role of Supplementary Planning Documents or Area Action Plans, if any, is also not dealt with in the White Paper; the district council is currently preparing a masterplan for the regeneration of Folkestone town centre, but it is not clear what status these types of documents will have under the new system.

Furthermore there are some wider cross-boundary matters that do not sit neatly within a rigid approach of 'growth', 'renewal' and 'protected areas', such as the natural environment. It is not clear how habitats will be protected when they do not fall within 'protected' areas or when wildlife moves across spatial areas. Would there be a national policy on wildlife corridors for example? Under the current system Green Infrastructure Plans seek to protect and enhance interconnected habitats, such as river corridors, which could potentially cross between a number of different 'growth', 'renewal' and 'protected' areas; it is not clear if these documents will have any place in the new system. How will this be compatible with and deliver the Environment Bill's proposals on net biodiversity gain and improvement plans?

*With regard to the process and time taken to identify the three categories ('growth', 'renewal' and 'protected areas'), as **all** land has to fall into one these, with the possibility of sub-areas within two of these as well, much will depend on how 'fine-grained' the identification of areas will be. There could be areas, such as in towns, where all three categories could overlap (for example, a major development site, partly within and partly outside a conservation area). There could, therefore, be many areas to identify and detailed work will have to be undertaken to justify where the particular boundaries of each category will be delineated. With greater emphasis on public consultation at this stage (which is supported), there could be a wide range of differing views from those who want development and those who do not in each of the proposed areas. This will not be a speedy task to undertake and decisions by the local authority will have to be fully justified.*

Proposal 2: Development management policies established at national scale and an altered role for Local Plans

- 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.]

District Council response:

While this is again supported in principle, there are concerns as to what the national policies may say and cover and how far local codes could deviate from these.

For example, the current legislation and National Planning Policy Framework policies for the historic environment (Listed Buildings and Conservation Areas) work reasonably well and there is no need for local policies to repeat what is said at national level to help decide whether development should proceed or not. (This is the approach that the district council has taken to the historic environment policies in its recently adopted local plan.)

There are, however, instances where local issues may not fit directly with national policy. For example flood risk. This district's Core Strategy currently considers flood risk policy in three character areas (for applying the sequential test within each). This is because one character area is primarily within Flood Zone 3 and settlements there would not be able to develop to meet their future needs if the sequential test was applied district-wide. Under the new system, would national policy allow for this?

Another example is policy relating to Areas of Outstanding Natural Beauty (AONBs). The Kent Downs AONB unit produces a Management Plan, which the Council, as partner on the Joint Advisory Committee, has endorsed. Although not part of the development plan, the AONB Management Plan is a material consideration in preparing local plans and determining planning applications. Within this there are principles that are applied to the specific character of the AONB (such as setting). The AONB unit also produces guidance on development which is adopted by the council as supplementary planning documents. It is not clear what status, if any, these documents would have under the new system. Would local authorities be able to consider such specific guidance when deciding planning applications if planning applications within protected areas are to be judged solely against national policy?

Proposal 3: Local Plans should be subject to a single statutory ‘sustainable development’ test, replacing the existing tests of soundness

- 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.]

District Council response:

The current legal and soundness tests are confusing, especially for the general public, and it would be advantageous to replace these with a more straightforward test or question. The process of sustainability appraisal and habitats regulations assessment is complex and legalistic and involves a significant cost for local authorities. It is not stated, however, what the sustainable development test would involve.

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

District Council response:

District and County Councils, as well as other statutory agencies, routinely discuss cross-boundary issues but the current duty is too rigid. A new less rigid process, which demonstrates discussions have been undertaken but does not automatically stop plans progressing at examination, should be considered.

Proposal 4: A standard method for establishing housing requirement figures factoring in land constraints and opportunities to use land more effectively

- 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.]

District Council response:

The national approach to housing delivery needs to move away from a single focus on housing numbers and consider the broader range of housing needs, particularly the need for affordable housing.

It is difficult to comment on proposals for the new housing methodology, as little detail is provided. It is not clear how the proposals for the new housing methodology in the White Paper relate to the proposals set out in the earlier consultation, 'Changes to planning policy and regulations'. The White Paper states that the new methodology will be binding on authorities and will factor in land constraints. The consultation on 'Changes to planning policy and regulations' does not refer to land constraints. 'Changes to planning policy and regulations' also states that the proposed methodology will be temporary, prior to the changes in the White Paper being introduced; however, it also states that the new methodology will form 'part of the process' for setting the binding requirement, which suggests it will continue into the new system.

It is not clear from this how land constraints will be factored into this process: whether this will be a matter for testing at the examination of a local plan or whether the Government intends to introduce further changes to the national methodology at some future date.

This is a very important consideration for Folkestone & Hythe, where large areas of the district are covered by Area of Outstanding Natural Beauty designation, are subject to high risk of flooding or are subject to international protection for their rare and vulnerable habitats.

Despite these constraints the district council is bringing forward ambitious proposals for a sustainable new garden settlement. The district council should not be penalised in the future for housing delivery under the new system, given the high environmental qualities of the district and the constraints to development that this leads to.

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.]

District Council response:

The national approach to housing delivery needs to move away from a single focus on housing numbers and consider the broader range of housing needs, particularly the need for affordable housing.

The methodology currently measures affordability based on a single average wage and a mortgage of four times' annual income. To more accurately reflect affordability, the assessment needs to reflect the fact that many people buy homes with a joint mortgage. While some of these joint purchases may be a reflection of affordability problems (for example where a parent is a joint mortgagor with a child who is a first-time buyer), most will reflect a situation where the buyers are a couple and both mortgagors are in employment.

Regarding the introduction of measures for the existing housing stock, it is not clear why this is proposed to be introduced into the formula to calculate future housing need. The 'Changes to planning policy and regulations' consultation states that these new elements are intended to 'ensure that diverse housing needs in all parts of the country are taken into account.' However, the housing stock is a crude measure: in areas where there is high overcrowding, a factor for the existing housing stock is likely to underestimate housing need; in areas where there is a concentration of second homes or vacant properties, the addition of this factor is likely to overestimate housing need.

Current national policy and guidance already allow authorities to plan for higher levels of growth than set out in their minimum requirement figures. Planning Practice Guidance currently stresses that the national methodology provides a minimum starting point and allows local authorities to plan for levels of growth above these figures; for example, to account for changing economic circumstances, growth strategies, infrastructure improvements or taking on unmet need from neighbouring authorities. It is not clear why existing planning guidance on this issue is considered inadequate to deal with this issue.

Proposal 5: Areas identified as Growth Areas would automatically be granted outline planning permission and automatic approvals would also be available for pre-established development types in other areas suitable for building.

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.]

District Council response:

It is agreed that the principle of development should be established by the allocation of a site in an adopted local plan to avoid unnecessary debate about the principle of development at planning application stage. However, this should not mean that the detail of schemes evades proper democratic scrutiny at planning application stage by local authorities' planning committees.

Primacy needs to return to the development plan for residents and developers. There needs to be a clearer emphasis that the allocation of a site removes, not the need for detailed permission, but any question of the principle. Outline applications which establish the place-making objectives are to be encouraged.

In short, there are some advantages of such an approach, but the mechanism appears crude and would significantly reduce local democratic say in development, further undermining trust in the planning system and in turn government. There should be a much stronger position in law that states where a site is allocated, for the period of the local plan, the principle of the development cannot be challenged.

There should perhaps be a requirement for local planning authorities to draw up development briefs for detailed sites or for local planning authorities to commission indicative masterplans for consultation events.

However, there are important issues that are currently identified at the outline stage. For example environmental impacts are usually screened, scoped and assessed at this stage; it is not clear when this would be undertaken for a particular scheme coming forward in a growth area.

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.]

District Council response:

As with the above, (see the council's answer to Question 9(b)), while there are some merits, the overall approach is crude and lacks flexibility.

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.]

District Council response:

It is assumed that this proposal would be aimed at larger developments - new towns, villages and garden city proposals.

There are some positives with the Nationally Significant Infrastructure Projects (NSIP) regime, particularly for the developer.

For the developer (or those engaged in the delivery), there may be huge benefits for the timetabled approach (six months from formal submission; but often the pre-application process requires a significant amount of time before a scheme is submitted) and consequent certainty about the decision-making this brings. It is front-loaded and creates certainty, although it is heavily reliant on pre-application engagement with interested parties, statutory consultees and the local planning authority itself. Although this can be successful, it would not be appropriate for all types of development, and requires developers to be open to changing their schemes, based on the advice of the local planning authority and other consultees.

The NSIP mandated 'Pre-application engagement' includes environmental assessment (so effectively removing the need for Environmental Impact Assessment), helps with transparency and should be embedded in any validation requirement for outline applications.

However, there are many drawbacks to the NSIP regime.

New settlements could have a significant impact locally and to make them NSIP applications would reduce local democratic input and undermine trust in the system.

The local planning authority would be expected to attend hearings (which can go on for six months) to defend its position in planning and policy terms. This requirement is particularly onerous on local planning authorities – already stretched resources have meant that often local representation is missing from hearings.

Under the NSIP regime, the developer can craft its own consent through the Development Consent Order (DCO) – this often leaves the local planning authority powerless within the system. Local planning authorities effectively become merely a consultee with a voice the same as other consultees (such as the Environment Agency or Natural England), although it will be the local planning authority that will have to deal with the long-term impacts of the development.

Other observations:

- Local communities and members of the public may find it difficult to understand the system, and is not always easily accessible. Also, once the DCO is granted, there is little need for the developer to continue public engagement.*
- Some local planning authorities may already have accumulated experience and understand how they need to increase capacity to respond to an application. However, knowledge about the DCO system will vary between authorities.*
- Local planning authorities would be required to prepare a Local Impact Report on the effects of a particular development as part of DCO pre-submission process. These are technical documents and experience shows that there is little or no reference to these reports or their implications later in the process.*
- Local planning authorities would have to assess and approve the pre-submission consultation, undertaken by the developers.*
- After the DCO, the local planning authority would need to be involved in the discharge of requirements (similar to a reserved matters submission) and permissions for associated works and developments. Discharge requirements must and should be subject to a Planning Performance*

Agreement – especially if more rigid time frames for determination (without extensions of time) is to be introduced.

Proposal 6: Decision-making should be faster and more certain, with firm deadlines, and make greater use of digital technology

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

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

District Council response:

If the fee is to be returned if no decision has been made within the time limit, then this could encourage the routine refusal of applications that are approaching their cut-off point and deter local planning authorities from negotiating with applicants to resolve issues and seek more acceptable schemes.

Under the current system, it is very difficult to determine a major application with a Section 106 agreement within 13 weeks, and the fees for these applications tend to be larger and they tend to be the developments that the local planning authorities will want to encourage.

This would also significantly impact on tight local planning authority budget setting. How could local planning authorities plan to resource their planning departments with uncertain fee income, especially where the fee income does not cover the full cost of the service in the first place?

The council would support a national digitized validation process, but what about local requirements for validation? It will be very difficult to standardise supporting information as every local authority is different, particularly, for example, with flooding issues.

Certain conditions could be standardised, but the more complicated the proposal, the more complicated the conditions. The district council uses standardised conditions for small-scale developments in any event, and they are based on the model conditions in Circular 11/95.

Proposal 7: Local plans should be visual and map-based, standardised, based on the latest digital technology, and supported by a new template

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

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

District Council response:

Visual, web-based local plans would be clearer and more accessible for most. There are however, members of the public who do not use electronic information or could not use it due to internet service availability where they live. Folkestone & Hythe District includes large rural areas with a poor internet service. No alternatives are suggested.

This part of the proposals may need a staggered introduction – the proprietary IT local plan packages currently available are not of a high standard and are expensive for local authorities to buy in.

Proposal 8: Local authorities and the Planning Inspectorate will be required to meet a statutory timetable for key stages in the local plan process.

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.]

District Council response:

While the council would support efforts to simplify the local plan process, particularly the procedural requirements and tests, it is questioned whether this timetable could be achieved without a significant reduction in community involvement.

The council's recently adopted local plan involved five separate consultations (on issues and options, proposals and main modifications) and took almost five years. The proposals in the White Paper would allow a maximum of two-and-a-half years

and permit two consultations: one at the start, before the plan is drafted, and one at the very end after the local plan is submitted to the Secretary of State and cannot be amended.

In addition, as 'Growth' areas are required to have an accompanying "masterplan" and "site-specific code" agreed as part of the 'permission in principle', it is difficult to see how such a level of detail could be achieved within the local plan process itself, given the proposed new time limit and the emphasis on front-end community engagement. While it is noted that the site-specific codes and masterplans could be developed "subsequent to" the local plan being approved it also states that these documents "should be in place prior to detailed proposals coming forward". This suggests that they should be undertaken at the same time to avoid delay and uncertainty.

With the approval of outline permission for new development in growth zones moving to the plan-making stage, rather than the planning committee, it is likely that carrying out consultation, considering representations made and the discussions at the Local Plan Examination in Public will all take longer than anticipated, as there will be no opportunity for issues to be resolved during the drafting of the plan and participants will be forced to make their points at examination.

Any penalties for failing to meet the timescale for plan preparation needs to recognise that delays can occur through reasons outside the control of local authorities. The preparation of the district council's Core Strategy Review has had to accommodate three different methods for calculating housing requirements, with changes in Government policy, as well as the publication of two different versions of national planning policy, and a legal judgement in the 'People Over Wind' case, affecting the process of Sustainability Appraisal and Habitats Regulations Assessment.

The Government must also ensure that the legislation is properly considered and that there is a sufficient transition period so that local authorities are not forced to abandon work they have already undertaken.

Proposal 9: Neighbourhood plans should be retained, and better use should be made of digital tools

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

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

District Council response:

Neighbourhood Plans provided an opportunity for local communities to shape the place in which they live. They have, however, become far more complex than originally anticipated and the majority in our district did not reach completion (only one out of five has moved forward to prepare and adopt a Neighbourhood Plan).

One advantage with Neighbourhood Plans is that consultation with the community could be more focused and successful than a broader consultation for the whole district.

However, the status and sequencing of Neighbourhood Plans needs to be properly considered. While ideally we would work with interested neighbourhoods at the same time as preparing a new-style Local Plan, the new local plan timetable would mean that there would only be 18 months for this to be completed.

It seems inevitable from this that many Neighbourhood Plans would follow on from an adopted Local Plan. Will they have to follow the proposals for 'growth', 'renewal' and 'protected areas' in the local plan? If neighbourhoods want to put forward different proposals what status will these plans have?

If the new-style Local Plans cannot contain locally-specific development management policies, and this will be dealt with solely at the national level, does this mean that Neighbourhood Plans can only allocate sites for development and not contain any other policies? If this is the case, then it is likely to reduce the enthusiasm of local communities to produce Neighbourhood Plans.

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?

District Council response:

The Neighbourhood Plan process would need to be simplified to ensure that local communities can undertake the work. The amount of work required to produce a plan and the evidence base, including Sustainability Appraisals, has put many local communities off undertaking a plan. The use of digital tools may well help speeding up and assist with the process. There is, however, the question of how this would be resourced.

Proposal 10: A stronger emphasis on build-out through planning

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.]

District Council response:

Government should reduce implementation periods. We would also suggest that land-banking is tackled. The Government should revisit the recommendations of the Letwin Review, particularly those relating to improved compulsory purchase mechanisms.

If the Government is serious about radical reform, then when development is approved and planning permission is given this should be subject to a significant bond, as happens in the oil industry. Where the agreed build-out rates are not met, the bond should be forfeit to Homes England or the local planning authority to step in and take over the implementation of the development.

The council agrees with the idea of encouraging multiple phases of development to come forward at the same time but this must be supported by infrastructure. Furthermore, delivery may be managed by housebuilders to stop the release of too many homes on the market at any one time to keep sales values high. The Government needs to understand that - other than granting planning permissions or undertaking development themselves - local authorities currently have little control over how quickly sites are built-out and homes released for sale, so measures to address this should be directed at the development industry, rather than local planning authorities.

General questions

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]

District Council response:

The quality is dictated far too often by the ambitions of the developer – or lack thereof. The focus should be on place-making as a start with local planning authorities resourced accordingly to actively encourage and secure better developments.

Quality is often diluted post-permission by developers seeking to isolate individual elements of the design quality of a scheme through minor material amendments and details pursuant to conditions or just not complying. Therefore, the execution is often left wanting.

Outside London, in the absence of a determined local planning authority and committee base, quality can suffer.

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]

District Council response:

While all of these measures, and others not listed, are important, the focus needs to be on the source of greenhouse gas emissions. SCATTER Cities data for the district council's administrative area suggests that the two most significant sources of emissions are energy use in the existing housing stock and emissions from road transport.

Pillar Two: Planning for beautiful and sustainable places

Proposal 11: Design guidance and codes will be prepared locally with community involvement and codes will be more binding on decisions

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.]

District Council response:

A base design code is a promising idea to explore, but local planning authorities must have the freedom to have their own detailed guides and codes.

The council is developing design codes for the new garden settlement at Otterpool Park; however, it remains to be seen how design codes could be applied district-wide to largely replace the need for planning applications, as the White Paper proposes.

Unlike design codes for new towns or large urban extensions, district-wide design codes would need to be applied to a wide variety of sites, in a range of different contexts, reflecting, for example, local vernacular buildings, large Victorian villas, post-war suburban developments and densely-developed commercial town centre plots.

It is strongly suggested that By Design, Urban Design Compendium and the Commission for Architecture and the Built Environment (CABE) are reinstated, as well as Government setting out a clear message that good design and place-making is key to all decisions. The revised National Planning Policy Framework reintroduced some of the tools lost from the former Planning Policy Guidance 3 and Planning Policy Statement 3; other guidance from these withdrawn documents should be considered.

Proposal 12: The Government will set up a body to support the delivery of local design codes and will require each authority to have a chief officer for design and place-making.

- 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.]

District Council response:

It is considered that there does not have to be a Chief Officer for Design and Place-Making: this should be the job of the Chief Planner, supported by a team of professionals.

Each local planning authority should, however, have specialist urban designers, and place-making and design should be at the heart of local planning authorities' decision-making. Resources would be better used in training existing planners and embedding the principles of urban design training in all planning degrees.

Furthermore, local planning authorities should ensure that their structures encourage the 'development team' approach, with a range of skills in-house to support the community and decision-making at all stages (including for example, heritage specialists, ecologists, arboriculturists, urban designers, landscape architects). Local planning authorities used to have these specialists in-house, but it is now rare for them to be able to call on this range of skills, due to imposed budget cuts.

Proposal 13: Homes England's strategic objectives will be amended to give greater emphasis to delivering beautiful places

- 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.]

District Council response:

Support from Homes England on design quality and environmental standards is a good idea in principle and is supported.

Proposal 14: A fast-track process of consent will be introduced to incentivise high quality development which reflects local character

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

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

District Council response:

This proposal is not clearly articulated in the White Paper. How is local character defined and interpreted, and what about innovation? The Government needs to find a mechanism for breaking the monopoly that large house builders have on local areas. This could be achieved by a programme of council building across the country which would accelerate delivery and raise the bar against which private schemes would then need to compete. Until high quality is recognised across the country irrespective of location the development industry will continue to just deliver 'what sells'.

We need to create a rush to the top, not retain the current rush to the bottom, which the current system encourages through its overwhelming focus on housing numbers at the expense of housing quality.

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]

District Council response:

New developments should properly contribute to the full range of infrastructure for which they create a demand. The reforms should set up a clear expectation of 'infrastructure first'. One of the main reasons leading local people to oppose development is that new infrastructure too often does not keep pace with the needs of the growing community; the proposal that the new Infrastructure Levy will be paid on occupation will only add to this resistance.

Of particular concern would be any extension of permitted development rights, which would mean that more developments would escape the need to provide development contributions through the planning process.

The statement in the White Paper that the Government will 'look to extend the scope of the consolidated Infrastructure Levy and remove exemptions from it to capture changes of use through permitted development rights' is welcomed. However, it needs to be recognised that this will add to the burden on local authorities, since these changes are inherently more difficult to monitor, and enforcement may be needed where developments have occurred but no payments have been made.

Proposal 19: The Community Infrastructure Levy should be reformed to be charged as a fixed proportion of the development value above a threshold, with a mandatory nationally-set rate

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.]

District Council response:

The council is operating the Community Infrastructure Levy (CIL) and is collecting funding through this mechanism. Scrapping this system for a new and untested proposal would be a backward step.

CIL allows a local approach to infrastructure funding which recognises the different land values within the district. CIL payments are also due when development starts which helps with the timely provision of infrastructure. Proposals for a fixed, national rate could never recognise the very different land values across the country, and payment on occupation, rather than when construction starts, will only delay the delivery of infrastructure. The reforms should set a clear expectation of 'infrastructure first' for new developments.

The collection of revenue is only part of the process of providing infrastructure; there needs to be consideration of how local authorities can compel external infrastructure providers to deliver in a timely way to allow development to come forward.

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**]

District Council response:

The district council currently operates the Community Infrastructure Levy. CIL is a relatively flexible and straightforward system which has allowed for the designation of four different charging zones to reflect the very different land values within the district.

The imposition of a standard national rate risks de-incentivising development in areas where land values are low, or, if set at a fairly low rate, allowing areas with higher land values to contribute less towards the provision of infrastructure. Rates should be set locally, and, as now, be supported by local evidence of development uplift and infrastructure needs.

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.]

District Council response:

As outlined in the council's response to Question 22(b), the amount of uplift that can be captured will be dependent on the very different land values that apply across a local authority's area. The imposition of a national rate cannot hope to be responsive to the varied land values that operate across local authorities' areas.

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.]

District Council response:

There should be an option for local authorities to borrow against the Infrastructure Levy - if it is necessary to deliver a major piece of infrastructure that could unlock significant development - but this should not be the default position.

One of the main reasons leading local people to oppose development is that new infrastructure too often does not keep pace with the needs of the growing community; the proposal that the new Infrastructure Levy will be paid on occupation will only add to this resistance. The reforms should set a clear expectation of 'infrastructure first'.

Expecting local authorities to routinely borrow against the Infrastructure Levy (because payment is delayed until occupation rather than when construction begins) puts an unnecessary financial and administrative burden on local authorities and would also fundamentally delay necessary infrastructure.

This would simply transfer risks from the development industry to local authorities; if this is introduced, does the Government expect that this reduction in risk would really be reflected in reduced values for landowners or reduced profit margins for developers?

Proposal 20: The scope of the Infrastructure Levy could be extended to capture changes of use through permitted development rights

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.]

District Council response:

The statement in the White Paper that the Government will 'look to extend the scope of the consolidated Infrastructure Levy and remove exemptions from it to capture changes of use through permitted development rights' is welcomed. However, it needs to be recognised that this will add to the burden on local authorities, since these changes are more difficult to monitor, and enforcement may be needed where developments have occurred but no payments have been made.

Permitted development rights must also take account of local authorities' space standards for new homes, to avoid unsuitable developments that restrict residents' life choices and affect their health and wellbeing.

Proposal 21: The Infrastructure Levy should be used to deliver affordable housing

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.]

District Council response:

If this new system is imposed on local authorities, then it should not lead to any reduction in the provision of affordable homes. As set out in the council's response to the 'Changes to the current planning system' consultation, the introduction of First Homes is not likely to deliver truly affordable homes within this district; the proportion and type of affordable homes should be set by local authorities, based on local evidence, and delivered on site in the first instance.

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.]

District Council response:

If this new system is imposed on local authorities, then there should be provision for in-kind delivery of affordable homes on site. The White Paper states that 'Local authorities would have a means to specify the forms and tenures of the on-site provision, working with a nominated affordable housing provider' and this is welcomed. However, this seems to go against the Government's proposals for First Homes, which would take precedence over any local requirement; the proportion and type of affordable homes should be set by local authorities, based on local evidence, and delivered on site in the first instance.

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.]

District Council response:

The fact that such a mechanism is needed illustrates the unsuitability of the proposals.

If the market falls and local planning authorities are required to return affordable homes to the developer to sell on the open market, or, alternatively, if a developer cannot claw back any overpayments, then this shows the inherent uncertainty of forecasting the level of infrastructure payments until the very end of the process, as homes are occupied.

The advantage of CIL is that the level of payment is known in advance and can be factored into the offer the developer makes for the land. The current proposals seem to protect the landowner at the expense of either the local authority (if overpayments need to be returned) or the developer (if overpayments cannot be clawed back).

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.]

District Council response:

If this approach is introduced, then the council would support the idea of being able to revert to a cash contribution if affordable housing quality is poor. However, the cash contribution should reflect the real cost of provision of affordable housing. This means not just the build cost, but also land purchase price, as the affordable housing foregone on a poor-quality site will need to be provided at another site within the local authority's area. This may reduce the benefit to the developer of providing poor quality affordable housing. Furthermore, a definition of poor quality should be agreed by the local planning authority and developer ahead of the delivery and written into a legal agreement to be binding on both parties.

Proposal 22: More freedom could be given to local authorities over how they spend the Infrastructure Levy

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

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

District Council response:

While greater freedoms would be welcome in principle, in practice the amount of revenue collected by the new Infrastructure Levy is unlikely to fully meet the demand for new infrastructure, and, as now, local authorities will have to explore other funding sources to make up the gap. It seems highly unlikely that there would be excess revenue that could be spent on other non-infrastructure related services.

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

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

District Council response:

If there were any excess infrastructure revenues, then the provision of affordable housing should be 'ring-fenced'. However, as set out in the council's response to Question 25, it seems highly unlikely that there would be any excess infrastructure revenue that could be spent on other non-infrastructure related services.

Equalities Impacts

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?

District Council response:

No comment.