

This Report will be made public on 13 October 2020



Report Number **C/20/40**

To: Cabinet
Date: 21 October
Status: Non key
Responsible Officer: Charlotte Spendley, Director – Corporate Services
Cabinet Member: Councillor David Wimble, Cabinet Member for the District Economy

SUBJECT: **RESPONSE TO CONSULTATION ON THE PLANNING WHITE PAPER 'PLANNING FOR THE FUTURE'**

SUMMARY: This report summarises the proposals in the Government's Planning White Paper, 'Planning for the Future', currently out for consultation. The report sets out proposed comments from Folkestone & Hythe District Council, which, if approved by Cabinet, will be submitted to the Ministry of Housing, Communities and Local Government as the district council's formal response to the consultation.

REASONS FOR RECOMMENDATIONS:

So that the district council's comments can be taken into account by the Ministry of Housing, Communities & Local Government in finalising its proposals.

RECOMMENDATIONS:

1. To receive and note report C/20/40.
2. To approve the draft consultation comments set out in Appendix 1 for submission to MHCLG, with any final amendments or additions agreed by the portfolio holder, in consultation with the Leader.

1. BACKGROUND

- 1.1 The Ministry of Housing, Communities & Local Government (MHCLG) has recently consulted on two documents:
- *'Changes to the current planning system: Consultation on changes to planning policy and regulations'* - this consultation ran for eight weeks and closed on 1 October 2020; and
 - The White Paper, *'Planning for the Future'* - this consultation runs for 12 weeks and closes on 29 October 2020.
- 1.2 The first of the consultations was reported to Cabinet on 16 September 2020 and the consultation comments were submitted to MHCLG on 18 September.
- 1.3 This report deals with the second consultation, the planning White Paper. Draft consultation comments are set out in Appendix 1, which, if approved by Cabinet, will be submitted to MHCLG by 29 October 2020, subject to any amendments or additions under Recommendation 2.

2. **'PLANNING FOR THE FUTURE', WHITE PAPER AUGUST 2020**

- 2.1 The White Paper, *'Planning for the Future'*, sets out major reforms to the planning system. The consultation paper can be viewed on MHCLG's website.¹
- 2.2 The White Paper is highly critical of the planning system, stating that the system is *'outdated'* and *'ineffective'*, a *'relic from the middle of the 20th [century]'*. It leads to *'nowhere near enough homes in the right places'* and means that *'businesses cannot afford to grow and create jobs'*.
- 2.3 The Prime Minister's Foreword states that *'The whole thing is beginning to crumble and the time has come to ... tear it down and start again.'* Following from this the Prime Minister promises *'Radical reform unlike anything we have seen since the Second World War'*.
- 2.4 The Secretary of State's Foreword adds that the reforms will place a *'higher regard on quality, design and local vernacular than ever before'*, drawing inspiration *'from the idea of design codes and pattern books that built Bath, Belgravia and Bourneville'*.

The Government's vision for a new planning system

- 2.5 The Government sets out a vision for a new planning system, including aspirations to:

¹ See: *'Planning for the Future'* White Paper, August 2020, Ministry of Housing, Communities & Local Government

<https://www.gov.uk/government/consultations/planning-for-the-future>

- Create new developments that are beautiful, rather than just avoiding harm to the street scene;
- Make more use of technology to encourage public involvement at all stages of the process – the system *'should be based on data, not documents'*;
- Support home ownership, economic growth and renewal;
- Support innovation in housebuilding, through increasing opportunities for small firms, self-build and modern methods of construction;
- Promote the stewardship of the environment, gains in biodiversity and address the challenges of climate change; and
- Support the renewal of villages, towns and cities.

2.6 The Government's proposals are based on three 'pillars':

- *Pillar One – Planning for development* – reforms to the local plan process;
- *Pillar Two – Planning for beautiful and sustainable places* – reforms to the development management process; and
- *Pillar Three – Planning for infrastructure and connected places* – a streamlined approach to developer contributions.

2.7 The White Paper sets out 24 proposals relating to these three pillars and how the reforms will be implemented (under the heading 'Delivering Change'). The consultation asks 26 questions (set out in Appendix 1 with proposed district council responses):

- Most of the questions ask for views on the Government's proposals;
- Some questions are directed more at the general public or planning applicants and no responses are proposed to these questions;
- The final question asks about the equalities impacts of the proposals and no response is proposed to this question; and
- Some of the proposals (Proposals 15 to 18) are more statements of intent or are linked to separate initiatives that will be subject to later consultation, and the consultation does not ask any questions in relation to these proposals.

3. PILLAR ONE – PLANNING FOR DEVELOPMENT

3.1 The White Paper highlights other countries where a zoning system operates (Japan, the Netherlands and Germany) and suggests that a similar approach could be used in this country, with local plans giving outline planning permission for development falling within certain parameters. The development management system would be greatly scaled-back, particularly in areas where no major constraints apply.

3.2 Local plans should be based on transparent requirements that make the process of getting planning permission as simple as possible. Local plans should be published as standardised data to enable data from different

authorities to be compiled into a national map. Clear expectations should be established, so that people have confidence that development will deliver beautiful and sustainable places.

Proposal 1: The role of local plans should be simplified

3.3 The White Paper proposes that local plans are simplified. Local plans would identify three types of area and different consent regimes would apply within each area (summarised in the table in Appendix 2). The three types of area would be:

- *Growth areas* – land suitable for comprehensive development, such as new settlements, extensions to settlements, urban regeneration or business parks;
- *Renewal areas* – built areas where infill development would be appropriate or small sites within, or on the edge of, villages suitable for development; and
- *Protected areas* – where more stringent controls would apply, including Green Belt, Areas of Outstanding Natural Beauty, Conservation Areas, Local Wildlife Sites, areas of significant flood risk and the open countryside.

3.4 Local Plans would become web-based, making data and policies easy to search. Plans would set out proposals for the three different areas as follows:

- *Growth areas* and *Renewal areas* – policies within these two types of area would set out suitable uses with limitations on height and density where relevant, with sub-areas such as high streets and town centres defined as distinct areas. There would be a requirement to identify particular sub-areas for self-build and custom-build homes and community-led housing developments; and
- *Protected areas* – permissible development would be defined by cross-reference to the National Planning Policy Framework (NPPF).

3.5 The consultation asks for views on these proposals and whether they could be simplified further, for example, by combining the Growth and Renewal areas into a single category.

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

3.6 Policies in new Local Plans would be restricted to site or area-specific requirements, such as broad height limits, scale and/or density limits. The NPPF would provide general policy guidance; there would be no provision for general development management policies in local plans.

3.7 The White Paper promotes the use of design guides and codes to provide certainty about the form and appearance of development. These could be produced for a whole local authority area, for a smaller area or site, or a combination of both. Design guides and codes would be produced by the local authority in parallel with work on the local plan. The White Paper suggests that these guides and codes would be written *‘in a machine-*

readable format so that wherever feasible, they can be used by digital services to automatically screen developments and help identify where they align with policies and/or codes.'

- 3.8 The consultation asks about this proposal, or whether some scope could be given to local authorities to produce general development management policies, provided they did not repeat policies in the NPPF.

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

- 3.9 The White Paper proposes simplifying the range of tests that local plans are subject to by:

- Abolishing the Sustainability Appraisal system;
- Removing the Duty to Co-operate on strategic cross-boundary issues; and
- Simplifying the requirement to demonstrate the deliverability of the plan.

A simpler 'sustainable development' test would be introduced to replace the current tests.

- 3.10 The Duty to Cooperate was introduced by the Localism Act of 2011; this requires local planning authorities *'to engage constructively, actively and on an ongoing basis'* on cross-boundary planning matters. Further changes were introduced by the 2018 NPPF, which requires local planning authorities to prepare and maintain Statements of Common Ground with neighbouring authorities and other organisations on cross-boundary matters.

- 3.11 Regarding what might replace the Duty to Cooperate and Statements of Common Ground, the consultation suggests that strategic plans are being considered as an option in some areas, stating that *'further consideration will be given to the way in which strategic cross-boundary issues, such as major infrastructure or strategic sites, can be adequately planned for, including the scale at which plans are best prepared in areas with significant challenges'*.

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

- 3.12 The proposal for a standard method for setting housing requirements would be different from the current system and would be binding. The new method would have regard to:

- The size of existing settlements;
- The relative affordability of places;
- The extent of land constraints in an area;
- Opportunities to use previously developed ('brownfield') land for housing;
- The need to make an allowance for other types of development; and

- The inclusion of a buffer to offer choice to the market.

3.13 A separate consultation was undertaken alongside consultation on the White Paper (reported to Cabinet on 16 September 2020) that included proposals for a new housing methodology, although the methodology in that consultation made no reference to land constraints and the relationship between that proposal and the White Paper is unclear.

3.14 It is proposed to remove the need to demonstrate a five-year supply of housing (the current forward-looking test under which local authorities have to show that they have at least five years' of housing land available) as the supply of housing would be demonstrated through the local plan. However, the Housing Delivery Test (the annual test of new homes built against targets for the previous three years) would remain.

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

3.15 Where the local plan has identified land for development, planning decisions should focus on resolving outstanding issues, not the principle of development. A faster consent regime would apply in these areas (proposals are summarised in the table in Appendix 2 and outlined below).

Growth Areas

3.16 In Growth Areas, outline planning permission would be conferred through adoption of the local plan and full permission would be achieved through a streamlined and faster consent route, focussed on securing good design. Detailed permission could be secured through:

- A reformed reserved matters process; or
- A Local Development Order prepared by the local planning authority in parallel with the local plan.

3.17 The consultation states that for exceptionally large sites, such as new towns, *'we also want to explore whether a Development Consent Order under the Nationally Significant Infrastructure Projects regime could be an appropriate route to secure consents.'*

3.18 The Nationally Significant Infrastructure Projects (NSIP) regime is a system for infrastructure developments whereby the applicant makes the application to the Planning Inspectorate. An examination is then held and the Planning Inspector makes a recommendation to the relevant Secretary of State who makes the final decision on the application. If approved, a Development Consent Order (DCO) is issued.

Renewal Areas

3.19 In Renewal Areas there would be a general presumption in favour of development. Consent for development would be granted in one of three ways:

- For the redevelopment of certain building types permission could be granted through a new form of automatic consent if the scheme meets certain design and other requirements; or
- For other types of development a faster planning application process would be used, determined in context of the local plan; or
- A Local or Neighbourhood Development Order could be granted.

3.20 Where a proposal comes forward that is not in line with the local plan (such as where an unexpected development opportunity arises) this would require a planning application; the White Paper says that these should be the exception rather than the rule.

Protected Areas

3.21 In Protected Areas any development proposals would need to come forward through the planning application process and would be judged against the general policies in the NPPF, as under the new system there would no longer be detailed development management policies in local plans.

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

3.22 The White Paper states that the current time limits for deciding planning applications of eight weeks or 13 weeks should be firm deadlines, not, as the paper puts it, *'an aspiration which can be got around through extensions of time as routinely happens now.'*

3.23 The White Paper suggests that there should be an automatic refund of the application fee where a planning application fails to be determined within the time limit. It is also proposed that where an application is refused but is granted on appeal, the application fee should be automatically refunded to the applicant.

3.24 Proposals are put forward for speeding up the planning application process:

- Greater digitisation of the planning application process with validation occurring at the point of submission so that the right information is provided at the start;
- New software to automate routine processes to support faster decision-making;
- Shorter and more standardised applications where information required is *'reduced considerably and made machine-readable'*;
- National monitoring of planning application information including developer contributions;
- A digital template will be created for planning notices;
- Greater standardisation for supporting information, such as for highway impacts, flood risk and heritage matters;
- Clearer and more consistent planning conditions with standard national conditions to cover common issues;

- A streamlined approach to developer contributions (see Pillar Three below); and
- The delegation of decisions to planning officers where the principle of development has been established.

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

- 3.25 The Government will publish a guide to the new local plan system setting out data standards, including clearer expectations around the more limited evidence that will be needed to support local plans.
- 3.26 Text in local plans should be limited to spatially-specific matters and local plans should be *'web-based ... rather than document based'*. This will allow a new level of digital civic engagement, the White Paper argues, and will encourage increased participation from a broader audience, particularly young people. The Government will set up a series of pilots to work with local authorities and technology companies to develop this technology.

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

- 3.27 Currently local authorities can choose to hold an initial consultation at the start of the plan-making process (consultation on 'Issues and Options'). Following this optional stage, authorities are required to consult on:
- The Preferred Options local plan (at Regulation 18 stage);
 - The Submission local plan (at Regulation 19 stage), before the local plan is submitted to the Planning Inspectorate for examination; and
 - Any main modifications to the local plan identified by the Inspector, before the Inspector issues his/her report and the plan can be adopted.
- 3.28 As a result, local plans can take a number of years from first draft to adoption. The White Paper proposes a streamlined process, stating that this would shorten the preparation to 30 months or less. This would comprise five stages:
- Stage 1 (6 months) - the authority invites suggestions for areas to be identified under the Growth Area, Renewal Area and Protected Area categories;
 - Stage 2 (9 months) - the authority drafts its proposed local plan and supporting evidence;
 - Stage 3 (6 weeks) - the authority submits the plan for examination and publicises the plan for public comment;
 - Stage 4 (9 months) – the planning Inspector considers whether the three categories in the plan meet the new sustainable development test (see Proposal 3) and makes binding changes; and
 - Stage 5 (6 weeks) – the local plan is brought into force.

- 3.29 A statutory duty would be placed on local authorities to adopt a new style local plan within 30 months of the new legislation being enacted, although authorities which have a recently-adopted plan in place would be given longer (42 months). As is the case now, there would be a requirement to review plans at least every five years, or sooner, and the Secretary of State would have powers of intervention where progress is not made.

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

- 3.30 The White Paper highlights the success of neighbourhood plans and states that it wants to retain neighbourhood plans in the new system. The consultation states that the Government will explore the potential of digital co-creation platforms and three-dimensional visualisation technologies to help neighbourhood planning groups.

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

- 3.31 The White Paper states that policy in the NPPF relating to large sites will be amended to encourage a variety of development types and sizes of firm, to allow multiple phases of a development to come forward at the same time. The White Paper states that the Government is considering other measures to support faster build-out.

4 PILLAR TWO: PLANNING FOR BEAUTIFUL AND SUSTAINABLE PLACES

- 4.1 The White Paper states that new developments should deliver net gains for the built and natural environment, and not just avoid harm. Reference is made to the report of the Building Better, Building Beautiful Commission² - the White Paper states that the Government will be responding to the Commission's recommendations in the autumn but key proposals are included within the White Paper. Some general questions are asked about people's perception of new development and their priorities for their areas.
- 4.2 The Government will publish a National Model Design Code in the autumn to set out detailed parameters for development in different types of location; this will be accompanied by worked examples and a revised and consolidated Manual for Streets. The National Model Design Code is intended to set a baseline standard of quality which local planning authorities will be expected to use in developing their own codes.

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

- 4.3 The White Paper proposes that local design codes will be given added weight in the planning process, if the local authority, neighbourhood planning group or developer demonstrates that they have been prepared with local

² See: <https://www.gov.uk/government/groups/building-better-building-beautiful-commission#reports>

input. Where no local codes are in place, the National Model Design Code should be used to guide decisions.

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

- 4.4 The Government recognises that not all local authorities have the necessary expertise to produce local design codes, and the White Paper states that a new expert body will be established to provide advice, monitor progress and challenge the development sector. Proposals will be published later this year for improving the resourcing of planning departments, but the consultation states that local authorities should provide leadership by appointing a Chief Officer for Design and Place-making.

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

- 4.5 The White Paper states that the Government will engage with Homes England, as part of the forthcoming Spending Review, to consider how its objectives could give weight to design quality and environmental standards.

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

- 4.6 The NPPF will be amended to state that schemes which comply with local design codes should have swift approval.
- 4.7 Where Growth Areas are identified in local plans, the permission in principle that will be granted through the local plan will require that a site-specific design code or masterplan, prepared by the local authority or site promoter, is agreed.
- 4.8 The White Paper also proposes that permitted development rights will be extended to allow the prior approval of *'popular and replicable forms of development'*. *'There is a long history'*, the White Paper argues, *'of 'pattern books' being used to articulate standard building types, options and associated rules (such as heights and set-backs)'*. Some approvals would still be needed from the local planning authority, such as for building materials, as well as for considerations such as flood risk and safe access. The Government intends to explore these proposals through pilot projects.

Proposal 15: The NPPF will be amended to strengthen the planning system regarding mitigating and adapting to climate change and maximising environmental benefits

- 4.9 The consultation states that the proposed reforms can be linked to a simpler, more effective approach to assessing environmental impacts. While local policies can continue to play a role in identifying important views or areas for renewable energy or woodland creation, the Government intends to provide a more robust framework in the NPPF so that there is no longer a need for generic policies in local plans.

Proposal 16: A quicker framework will be introduced for assessing environmental impacts and enhancement opportunities

- 4.10 The White Paper argues that the current system of Strategic Environmental Assessment, Sustainability Appraisal and Environmental Impact Assessment lead to duplication of effort and generate long and complex reports which inhibit transparency and cause delay.
- 4.11 A new system will be needed that speeds up decision-making, reduces duplication and is simpler to understand. The Government will set out proposals in a separate consultation in the autumn.

Proposal 17: Conserving and enhancing historic buildings and areas

- 4.12 The White Paper states that the Government will review and update the planning framework for listed buildings and conservation areas to allow for sympathetic changes to support their continued use and mitigate and adapt to climate change.
- 4.13 In doing so, the consultation adds, *‘we want to explore whether there are new and better ways of securing consent for routine works, to enable local planning authorities to concentrate on conserving and enhancing the most important historic buildings. This includes exploring whether suitably experienced architectural specialists can have earned autonomy from routine listed building consents.’*

Proposal 18: Improvements will be made to energy efficiency standards for buildings to help deliver the Government’s commitment to net zero emissions by 2050

- 4.14 The White Paper highlights the Future Homes Standard which will require new homes to produce 75 to 80 per cent lower CO₂ emissions from 2025. These homes will be *‘zero carbon ready’* with the ability to become fully zero carbon as the electricity grid decarbonises, without the need for retrofitting. The Government is reviewing the timescales for implementing these proposals and will set out further measures in the autumn.

5 PILLAR THREE – PLANNING FOR INFRASTRUCTURE AND CONNECTED PLACES

- 5.1 The White Paper highlights problems with current systems for securing developer contributions through Section 106 agreements and the Community Infrastructure Levy (CIL). Negotiations over Section 106 agreements are lengthy and opaque and can be subject to renegotiation depending on viability. Although simpler and clearer, CIL can increase risks and costs for developers, as payment is required when development starts, before costs can be recouped through the sale of homes.
- 5.2 The White Paper proposes reforms to the system for securing developer contributions to simplify the process, ensure a fairer contribution from developers, improve transparency and better reflect the rise and fall of prices.

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

- 5.3 The White Paper proposes that the current system of Section 106 agreements be abolished and a reformed, extended 'Infrastructure Levy' be created. This would be a nationally-set flat-rate charge based on the final value of a development (or assessment of the sales value where homes are built for rent) at the point where planning permission is granted. Although set nationally, revenues would be collected and spent locally.
- 5.4 The Infrastructure Levy would become payable at the point of occupation. There would be a threshold below which the levy would not be charged, to avoid making low-value developments unviable: in areas where land values are low more of the value generated by a development would fall below the threshold; in higher value areas a greater proportion of the development value would be above the exempt amount and so be subject to the levy.
- 5.5 Local authorities would be allowed to borrow against Infrastructure Levy revenues so that infrastructure could be forward-funded before development begins.

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

- 5.6 The White Paper asks whether the scope of the Infrastructure Levy should be extended to capture changes of use which require planning permission, even where no additional floorspace is provided. It also asks whether changes brought about through permitted development rights, such as the conversion of offices to residential use, should come within the scope of the levy. The White Paper states that the Government intends to keep the current exemptions for self-build and custom-build homes.

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

- 5.7 The consultation states that currently around half of all affordable housing built in England is provided through developer contributions secured through Section 106 agreements.
- 5.8 The White Paper proposes that under the new system, Infrastructure Levy funds could be used to secure affordable housing. Local planning authorities could require affordable housing to be provided on-site and could specify the forms and tenures of the housing, working with an affordable housing provider. The difference in value between the affordable unit and the price of the same unit on the open market could be offset against the developer's Infrastructure Levy liability.
- 5.9 The White Paper states that this proposal would transfer some risk to the local planning authority, but suggests that this risk could be mitigated through allowing local planning authorities to 'flip' a proportion of affordable homes back to market units for the developer to sell, if Infrastructure Levy liabilities are not high enough to cover the value secured through the affordable

homes. Alternatively, it could be specified that a developer would have no right to reclaim overpayments, if the value secured through the affordable housing was greater than the final levy liability.

- 5.10 The consultation also recognises that there would have to be safeguards put in place to prevent developers producing low quality affordable homes to reduce their costs. It is proposed that levy payments could be provided in the form of land within or adjacent to a site. Local authorities could borrow against further levy receipts to fund the delivery of more affordable homes.

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

- 5.11 Currently a proportion of the CIL revenue collected in a local area is transferred to the local parish or town council (the proportion depends on whether a Neighbourhood Plan is in place in the area). The White Paper states that these arrangements would continue, but that local engagement could be enhanced to give residents a greater say in how this proportion is spent.

- 5.12 Greater scope could be given to local authorities to spend Infrastructure Levy funds on other policy priorities, once core infrastructure obligations have been met; improving services or reducing council tax are suggested. As with town and parish councils, the consultation suggests that digital engagement could be enhanced to give local people a greater say in how Infrastructure Levy receipts are spent.

6 DELIVERING CHANGE

- 6.1 The final part of the White Paper highlights a number of other initiatives that the Government has recently introduced, or is intending to bring in, including:

- The separate consultation on technical changes to the planning system (see report to Cabinet, 16 September 2020);
- Recent changes to permitted development rights to support high streets and town centres following the COVID-19 pandemic;
- Plans to transform the Government's office estate by creating regional hubs in city centres and smaller towns across the UK;
- Exploring how the disposal of publicly-owned land can support smaller businesses and the self-build sector; and
- Supporting the creation of development corporations.

- 6.2 The White Paper recognises that planning departments are under great pressure, with spending per person down 60 per cent on average and shortages of staff; it also acknowledges that advances in technology will be needed if all of the Government's aspirations are to be met.

- 6.3 The consultation states that the focus of local planning authorities will shift from making discretionary decisions on planning applications to producing new local plans and high-quality design codes that set the parameters for

development and that this needs leadership from planning departments and a change of culture.

Proposal 23: The Government will develop a comprehensive resources and skills strategy for the planning sector

- 6.4 The White Paper proposes that planning fees will continue to be set on a national basis and should at least cover the full cost of processing the application type. The consultation suggests that a small proportion of the Infrastructure Levy income could be set aside for local planning authorities to cover their overall planning costs, including the preparation of local plans and enforcement activities.
- 6.5 Some local planning activities should still be funded through general taxation; other time-limited funding will be provided by Government to implement the reforms as part of the next Spending Review.
- 6.6 The Government will continue to engage with the property technology ('Prop Tech') sector through a Minister-led Prop Tech Innovation Council.

Proposal 24: The Government will seek to strengthen enforcement powers and sanctions

- 6.7 The Government wants to see an increased emphasis on planning enforcement; a service *'too often seen as the 'Cinderella' function of local planning authorities'*, the White Paper claims. As local planning authorities are freed from existing requirements through the proposed reforms, they will be able to focus more on enforcement, the White Paper argues.
- 6.8 The Government will introduce more powers to address unauthorised development and encampments and will consider introducing higher fines. It will also ensure temporary stop notices are more effective and consider what can be done in cases where the Environment Agency's flood risk advice is not followed.

7. CONSULTATION

- 7.1 Consultation is being undertaken by Government on its planning White Paper and proposed responses to the consultation are set out in Appendix 1 of this report.

8. OPTIONS

- 8.1 The options are:

(1) Not to respond to the consultation

This would mean that the district council would not have the chance to influence the Government's proposed changes to the planning system.

(2) To respond to the consultation

This would mean that the district council's comments, as set out in Appendix 1 with any additions or amendments under Recommendation 2, would be submitted to MHCLG for Government to consider in developing its proposals.

9. RISK MANAGEMENT ISSUES

- 9.1 The Cabinet report recommends submitting the comments set out in Appendix 1 to MHCLG, with or without amendments under Recommendation 2. It is not considered that this action comes with any appreciable risks.

Perceived risk	Seriousness	Likelihood	Preventative action
None	Not applicable	Not applicable	Not applicable

10. LEGAL/FINANCIAL AND OTHER CONTROLS/POLICY MATTERS

10.1 Legal Officer's Comments

There are no direct legal implications arising from this report. The White Paper proposes changes to primary and secondary legislation.

10.2 Finance Officer's Comments

There are no financial implications at this stage of the consultation.

10.3 Diversities and Equalities Implications

There are no direct diversities and equalities implications arising from responding to the consultation. The implications will depend on the final reforms introduced by Government.

11. CONTACT OFFICERS AND BACKGROUND DOCUMENTS

Councillors with any questions arising out of this report should contact the following officer prior to the meeting:

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Appendices:

Appendix 1: Consultation Questions and Proposed Folkestone & Hythe District Council Responses

Appendix 2: Summary of Proposals Relating to Local Plan Areas and Consent Regimes

APPENDIX 1: CONSULTATION QUESTIONS AND PROPOSED FOLKESTONE & HYTHE DISTRICT COUNCIL RESPONSES

General questions

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

Proposed District Council response:

No comment.

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

[Yes / No]

Proposed 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]

Proposed 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]

Proposed 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]

Proposed 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.]

Proposed 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.]

Proposed 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.]

Proposed 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?

Proposed 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.]

Proposed 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.]

Proposed 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.]

Proposed 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.]

Proposed 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.]

Proposed 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.]

Proposed 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.]

Proposed 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.]

Proposed 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.]

Proposed 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?

Proposed 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.]

Proposed 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]

Proposed 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]

Proposed 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.]

Proposed 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.]

Proposed 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.]

Proposed 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.]

Proposed 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]

Proposed 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.]

Proposed 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**]

Proposed 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.]

Proposed 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.]

Proposed 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.]

Proposed 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.]

Proposed 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.]

Proposed 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.]

Proposed 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.]

Proposed 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.]

Proposed 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.]

Proposed 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?

Proposed District Council response:

No comment.

APPENDIX 2: SUMMARY OF PROPOSALS RELATING TO LOCAL PLAN AREAS AND CONSENT REGIMES

Local Plan Zoning	Types of area covered	Planning status	Policies and guidance	Development management regime
1. Growth areas	Comprehensive development (e.g. new settlements, urban extensions, regeneration areas, business parks)	Automatic outline permission on adoption of local plan	<ul style="list-style-type: none"> • Design codes • Local plan policies covering: land use; height and density; town centres; self-build homes, etc. 	Faster consent route: <ul style="list-style-type: none"> • Reserved matters; • Local Development Order; or • Development Consent Order for large-scale schemes
2. Renewal areas	Built areas suitable for infill development; small sites within or on edge of villages	Presumption in favour of development	As above	Faster consent route: <ul style="list-style-type: none"> • Automatic consent if scheme meets certain requirements; or • Local/Neighbourhood Development Order Where proposal is not in line with local plan – planning application still needed
3. Protected areas	Areas of Outstanding Natural Beauty; Conservation Areas; flood risk; Local Wildlife Sites; open countryside	No automatic presumption in favour of development	General policies in National Planning Policy Framework	Planning application still needed – to be judged against NPPF policies