



## **Response from Hart District Council to the Government consultation on the White Paper – The Future of Planning**

### General comments

Hart District Council welcomes the opportunity to respond to the Planning for the Future White Paper consultation.

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

We feel that it is the housing delivery system that is broken, not the planning system. If the key objective is to deliver more homes that we are concerned the White Paper provides no tools for councils to ensure delivery or incentives for builders to break their absorption rate delivery models. Councils up and down the Country have sites with full planning permission, but the delivery rates are incredibly slow.

The White Paper is thin on detail, to the extent it is often unclear how a number of these proposals would operate in practice. Terminology is used loosely in the paper and it is challenging to provide full and effective responses whilst the paper itself lacks coherency. More detail and clarity will allow us to have a better idea of how the proposals would affect Hart. It feels that this is more of a Green Paper than a White Paper.

Elements of the paper are in conflict; such as the desire to give communities and neighbourhoods a more meaningful voice in the future of their area yet removing the ability for them to do so by minimising public input to the specific development proposals that will impact them, and the ability to produce meaningful neighbourhood plans.

The proposals put too great an emphasis on "up-front" consultation and involvement of local people and Councillors. Whilst it is of course vital that local communities have their say as Local Plans are developed, the world does not stay as it is the moment the Local Plan is adopted. The planning process needs to allow local

people and their elected representatives to voice concerns and opinions on planning matters as they arise, not just at one point in time.

I think when it comes to large-scale projects, the system is balanced too far towards the developer, who can often use the system to their own advantage, rather than working constructively with the local planning authority to achieve a better overall scheme.

This means that it is often frustrating as a policy maker trying to balance the needs of the community with the aspirations of the developer. Some of the 'little' things in planning which can trip up otherwise straightforward planning applications are also frustrating.

The challenge is in balancing the competing interests of communities, the environment, our natural and built heritage and the economy within the constraints of the planning system. Sometimes the balance works, other times it doesn't. Whether the White Paper proposals make the balance work more often than it does now, remains to be seen.

No planning system will work effectively unless it has the resources and skills required to make it work. Many Councils have difficulties to recruit and retain planners in local government against the competition and resource of the private sector. There is a real skills gap if design is to be moved higher up the agenda. We do support a review of resources and skills in the planning sector.

Finally, we need to consider the implications of Covid-19. This consultation takes place while the Country is in the middle of the pandemic. R values are increasing. Individuals and businesses are starting to adjust and consider the world after Covid-19. The world is changing – that is certain – but what will the new normal really look like. People have already made a huge step to working at home, this changes commuting patterns and travel to work areas, need for office space, impact on retail and leisure uses. This will definitely change 'housing market areas'. It may even help in rebalancing the north south divide. The businesses case for certain national infrastructure projects will need to be revisited. We are at risk to seeking to radically change the planning system at a time when we really do not know what we really need to the planning system to deliver on. Maybe its time to put on hold the radical reforms of the planning system until we have a clearer picture of what the future holds.

## **Pillar 1 – Planning for Development**

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

1. Developer-led
2. Frustrating
3. Challenging

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

[Yes / No]

Yes. Hart District Council is the Local Planning Authority for the administrative area of Hart District in Hampshire.

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]

N/A

3. Our proposals will make it much easier to access plans and contribute your views to planning decisions. How would you like to find out about plans and planning proposals in the future?

[Social media / Online news / Newspaper / By post / Other – please specify]

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

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]

1. The design of new homes and places, supported by the appropriate infrastructure;
2. Protecting our environment, green and blue spaces, biodiversity and action on climate change;
3. Building mixed and balanced communities; and meeting the need for affordable homes locally.

All of those listed issues are important and need to be addressed through the planning system.

## **Proposal 1 – Simplified Local Plans**

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

Yes. Hart District Council fully supports the plan-led system and we consider that there is scope to simplify local plan, take a more digital approach, and reduce the time and cost of producing them. However we are not sure the current proposals would be successful. The current proposals appear to be a direct reaction to the time taken to prepare a local plan rather than looking at the outcomes that could be achieved. The plan-led system is the best way to secure the right development, in the right place, at the right time, and to prevent poor and inappropriate development. The concern is that with less management of the development process, we may not secure the quality of development that is needed.

The Brundtland definition from 1987 of sustainability “sustainable development which meets the needs of the present without compromising the ability of future generations to meet their own needs.”

The proposals to create three zones appears on face value to be too simplistic; a blunt tool that will not reflect local distinctiveness or variation that is experienced in more rural/urban locations, like Hart. The terminology appears to reflect a more urban setting where growth and renewal might be expected, but seems not to be so appropriate to smaller market towns and villages where the emphasis is less on renewal and more about sensitive design, appropriate scale etc. The term ‘growth’ will generate fear of massive development whereas ‘renewal’ suggests everything is to be demolished and started again.

It is agreed that the current local plan process is long, complicated, challenging, resource heavy. If there is to be a zoning approach it must be accompanied by the necessary tools to ensure good quality development which addresses the environmental and climate change agendas, and creates homes and workplaces fit for a post Covid-19 world. Guidance, training and resources for design codes is essential.

## Proposal 2 – National Development Management Policies in NPPF

*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.]*

Yes and No. There is an opportunity to set out nationally a number of development management policies; which would mean that these did not need to be set and justified locally. An example of this is National Space Standards, there is no need for these to be locally adopted. Similarly a national requirement for renewable energy on all new developments could be set nationally as this both reduces the carbon footprint and helps to reduce fuel costs. These are national issues, and do not need local variations. Conversely, detailed policies on the size, tenure and percentage of affordable homes should be set locally based upon local need and circumstances.

National development management policies must be fit for purpose and suitably flexible to apply in local circumstances. With the lack of detail, it cannot be concluded that this will occur.

The issue will be how these general policies are expressed and if they give control to allow local circumstances to be reflected and then taken into consideration in the decision-making process. For example, Hart and other authorities are affected by the Thames Basin Heaths Special Protection Area. To effectively deliver housing in this area, it is necessary to have a policy which sets out the approach to SPA avoidance and mitigation measures. Reference is made to 'standards', which are typically very precise without any room for manoeuvre, so it will be interesting to see what matters are to be covered through this approach.

There is reference to local design codes, which could allow local influences and interpretation to be expressed. It is unclear what weight these would have in the decision-making process and will they be seen to be part of the local plan or a SPD.

There is passing reference to neighbourhood plans, suggesting these would be the appropriate tool to include the local design guidance. Local communities would probably welcome this opportunity. The question is if Neighbourhood Plans are simply providing design guidance (because the zoning is in the local plan and the general DM is at national level) then would they still have to follow the whole examination procedure to become a development plan document. A SPD would seem a much simpler and quicker approach.

### **Proposal 3 – Replace tests of soundness with “sustainable development” test**

*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.]*

Yes. Some form of sustainable development assessment or test needs to be retained to ensure the right checks and balances are in place to allow development to happen in the most appropriate places.

The current system is broken. The process has become too lengthy, and the current SA/SEA approach has proved an easy opportunity for both NIMBYs and promoters of omission sites to argue to their cases to extremes. The SA system could be simplified significantly and refocused on the need to balance the social, economic and environmental matters. The loop-holes which allow the process to be abused should be removed.

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

Duty to co-operate has always been flawed as it is not a duty to agree. Statements of Common Ground has not assisted this. However, there needs to be some recognition of cross boundary issues; infrastructure provision etc, and more importantly the consistency of zones at or close to boundaries.

The Planning System did work significantly better when there was a Higher-Level Plan which deal with sub-regional or regional matters. The Regional Spatial Strategy for the South East (May 2009) was a good document, and while it lasted provided a clear strategic context for the Local Plan to be consistent with.

In some circumstances voluntary arrangements might work where there are mutual gains to be won, for example on strategic developments that generate cross-boundary impacts, but on some key issues a voluntary approach is unlikely to work, for example in addressing housing needs across district and borough boundaries.

## Proposal 4 – Standard method for housing requirement

*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.]*

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

The White Paper makes no mention of jobs and economic growth in the assessment of housing requirements. This may lead to houses being provided in areas far from employment opportunities leading to unsustainable commuting, and mean areas of strong growth do not have housing requirements to sustain future growth.

That said, there is merit in simplifying the system so that local authorities have to work to a housing figure set for them, rather than spend huge resources preparing and defending Strategic Housing Market Assessments, Sustainability Appraisals and other evidence to justify its local plan housing requirement. It would also remove the risk of the plan 'failing at the first hurdle' at examination which is an inherent problem in the current system

A strategic planning process would help to determine the right levels of development in different places. At present there is no effective strategic planning structure in place. The concern is that simply making a best guess on 'demand' at district level, and factoring in constraints, will not result in the most sustainable spatial development strategy at the strategic scale. A spatial development strategy should take into account a wide range of factors in the way the last round of regional plans did.

If the Government nevertheless continues with an approach whereby it sets local plan housing requirements, it must allow local authorities to make representations to Government, and be able to have some influence on the mix of housing to suit local housing need.

In our response to the 'Proposed Changes to the Current Planning System' we highlighted a range of concerns over the use of a standard method for establishing housing need.

For Hart, the new standard method would set an annual base housing figure of 237 from household projections (the baseline). This housing figure is then increased by 275 per annum based upon the affordability adjustment. Over a 20-year plan period this uplift would equate to 5,500 additional homes (20 x 275), or, based on an occupation of 2.4 people per home, an additional 13,200 people.

At the 2011 Census Hart's population was 91,000, so the efforts to address affordability alone will result in a 14.5% increase in population. This is a very large number, yet affordability will not be addressed by simply building more homes. There is no evidence to support the view that making more land available for homes will result in accelerated delivery or a reduction in the cost of new homes (refer to the Letwin Review and the absorption rate issue).

There is a serious question whether fundamentally changing the method for assessing housing numbers is appropriate at this time. The impact of the Covid-19 pandemic has had a dramatic effect on the way people live and work, and where they may choose to be located in the future. The traditional Travel to Work areas will change significantly with far greater number of people able and choosing to work from home. It is likely that people will choose locations to live based upon different criteria, including the price of homes. This is likely to reduce the demand on homes in the Home Counties.

*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.]*

No. There is much more to spatial planning than simply trying to meet what is, in an area like Hart, a seemingly insatiable demand for housing from London and other main centres. People are increasingly able to work more flexibly and from home which will drive demand out of urban centres into more rural locations like Hart. It is feared that this approach to planning for housing will reduce the emphasis on locating people and business at urban centres and will result in greater loss of countryside in more rural areas like Hart.

### **Proposal 5 – Automatic outline planning permission in Growth areas**

*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.]*

Yes. The plan should establish the principle for development with details to be resolved through a development management process. Yet if automatic consent was to be given, it would be necessary at the zoning stage to undertake all the necessary impact assessments (transport, flooding etc).

Statutory consultees are renowned for wanting all the detail specified before they will provide a view. Faster routes for detailed consent could be achieved through Planning Performance Agreements and specialist multi-disciplinary teams but this does not negate the requirement for a full understanding and assessment of impacts.

*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.]*

Agree, there should be no permission in principle in Protected Zones.

The concern here is over a loss of control locally within 'renewal' areas' and, as a consequence, a fear that the high-quality outcomes we all seek are less likely to be achieved.

If the Government goes down this route then Councils should have the freedom within built up areas, to designate some parts as protected zones even if not covered by existing designations such as Conservation Areas. In some high quality, attractive neighbourhoods the emphasis will be on protection rather than renewal. In other areas such as a run down town centre the emphasis may well be on wanting redevelopment, but not necessarily scales of growth that might be inferred from a 'growth' designation.

If there was to be permission in principle within Renewal Zones, there should be strict controls over the agreement of details. These areas are likely to cover the existing built up areas, where most people live, and so effective development management is required within this zone.

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

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

No, not in all cases. The appropriate spatial strategy is a matter for the local authority or authorities concerned. Elsewhere we have argued for regional planning which would also be appropriate for planning the locations of new settlements.

If determined at the higher level, it questions what influence either the LPA or local communities would have in this decision, other than as a consultee.

This approach may be justified in cases where the new settlement would yield a substantial number of new homes (i.e 10,000 new homes or greater) where the scale of development would generate the need for substantial new / regional infrastructure. An example of that would be new settlements along the Oxford to Cambridge Arc. However smaller developments should be determined at the local level.

## **Proposal 6 – Faster and more certain decision-making**

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

The focus should be on good decisions not just quick decisions. To achieve both, it is vital that encouragement is given by the Government to the pre-application process, to ensure early engagement to resolve potential issues and overcome delay later in the process.

The “incentivisation” of quicker decisions by granting deemed consent after a period of time and the refund of planning fees to the applicant could impact local authority revenue streams. As will rebates on successful appeals. This is clearly a “stick” approach and it needs to be balanced with more help and support (the “carrot”) for local authorities by ensuring they are properly resourced to be able to produce quicker and more efficient decisions. In particular, the creation and promotion of design guidance and codes needs to be properly resourced and training initiatives provided and adequately funded.

It also needs to be recognised that the fundamental proposals put forward in the paper will take time to introduce and become established.

## **Proposal 7 – Local Plans to be visual, map-based and standardised**

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

Yes. The format of local plans could be improved. However, we need to be aware of the digital divide and access (or lack of) to the technologies being promoted. Some technology already exists, over and above social media platforms, and this needs to be developed and made more accessible to all.

*12. Do you agree with our proposals for a 30 month statutory timescale for the production of Local Plans?  
[Yes / No / Not sure. Please provide supporting statement.]*

No. There are too many variables at play in preparing a local plan to impose a statutory timetable. Particularly in the early years after these reforms there will be a need to adjust, train, and resource planning departments accordingly. The desire to front-load community engagement away from planning applications and towards local plans will also create challenges in terms of meeting tight timetables.

The issue is to do with keeping plans up to date, which authorities want to do anyway to provide the certainty and protection for residents and other stakeholders. Incentives to do this already exist in the form of Housing Delivery Test and Five-Year

Land Supply, although we recognise that one proposal is to remove the latter test. If the ultimate objective is to keep development going regardless of local plan progress, then those tests already work.

What is wrong with taking longer, provided the current plan does not become out of date? If an authority chooses to start early and it has time for a 3 or 4 year process before the current plan is out of date, surely this is acceptable?

Rather than impose a statutory timeline, how about a financial incentive e.g. those that meet the timetable have their PINS examination fees paid for by the Government, whilst those that fail to meet the timeline pay for their own examination.

There does seem to be a substantial lessening of public consultation in the proposed Local Plan process to the initial “call for sites/zones” and then publication of the final plan (presumably the equivalent of the current ‘Regulation 19’ stage). This does not seem to fit with the government statement of greater public involvement in Local Plans.

### **Proposal 9 – Neighbourhood Plans retained as important means of community input**

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

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

The paper has little reference to the role of Neighbourhood Plans in the new system. It is unclear how they fit into a system with a more strategic zoning approach. Neighbourhood Plans tend to have a number of very locally specific policies, which seem out of line with the higher level zoning and national development management approach. If they are to become the design codes referred to then they do not require development plan status. A further element to query is their role in meeting local housing need – is it still to be expected that the Local Planning Authority will proportion part of the District’s housing requirement to the parishes with Neighbourhood Plans?

If two of the objectives of the reforms are to simplify the planning system and increase and improve engagement on local plans then there is a case to remove them and instead put the energy and resource into the local plans system. If they stay, then the Government must provide clarity on their role alongside new style local plans, otherwise there is a risk that the measures to simplify the system are undermined by neighbourhood plans.

Finally, one of the problems with Neighbourhood Plans is that they are prepared by local communities rather than planning experts. The bar is set very high with the Plan having to be examined. Could NPs play a different role providing local guidance on design and other issues of local importance which are taken into account but which don’t need to go be examined? In addition should the local

planning authority be the arbiter as to whether a Neighbourhood Plan is fit for purpose i.e. it complies with national and local planning policies?

*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?*

Not sure how Town and Parish Councils will be able to embrace the digital platforms promoted. Are timelines to prepare Neighbourhood Plans to be introduced, along the lines of the local plan stages? If so, many Town and Parish Councils would potentially struggle to meet these given their internal processes and the fact that many are solely reliant on volunteers from the community.

We are aware of research undertaken by Dr Stefan Kruczkowski that developed a specification for using digital technologies within the planning system improving community and stakeholder engagement.

### **Proposal 10 – 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.]*

Yes. However, it is not the planning system slowing delivery down as demonstrated in the Letwin Review. There should be more attention on the delivery of development. Merely allocating more land will not increase housing delivery. There are significant failings in developers bringing sites forward once sites have been allocated and/or permitted and these issues are normally beyond the ability of planning or local authorities to influence.

It is recognised that it is difficult to know how to control this - forcing builders to build. Often different house building companies operate under the same parent company, and will not wish to complete so many units at once, which could impact on price.

How will we be able to ensure that the necessary infrastructure is put in at the right time – or will this fall to Local Planning Authorities and be funded by borrowing against future developer contributions?

What about suggesting not only a development commencement date, but also a completion date, otherwise they need permission again or the Local Planning Authority takes on completion of the development?

Certainly the build out of developments should be looked at. The planning system is often blamed for delaying development but we all know that lots of permissions are not implemented, perhaps more so in some parts of the country than others. Whilst there is a case for reforming the planning system, it is not the only issue that needs resolving if there is to be a step change in delivery.

## **Pillar 2 - Planning for Beautiful and Sustainable Places**

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

*[Not sure or indifferent / Beautiful and/or well-designed / Ugly and/or poorly-designed / There hasn't been any / Other – please specify]*

The design of new development has been mixed but is improving. Quite often schemes of poor design quality have been developed where local decision making has been removed, in particular through the permitted development route where former offices have been converted to residential units.

The volume of development is not matched by the design skills and resources we have available.

*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]*

Less reliance on cars and encouraging modal shift.

It is noted the question seems biased towards environmental sustainability. Environmental, social and economic considerations are inextricably linked and interwoven into the concept of 'sustainability' and social and economic considerations should be given equal weight alongside environmental concerns.

### **Proposal 11 – Local design guidance and codes**

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

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

Yes. We support the focus on locally prepared design guides and codes, and the overall desire to improve design quality generally. However the lack of detail in the White Paper means we are unclear on what criteria we could or could not put into them. For example, could we use them to prevent tower blocks?

The preparation of design codes and documents will have resource implications in terms of time and budgets and be dependent on the right design skills being available. Building for a Healthy Life is a ready to use tool that merits wider use and is already being used by our authority to raise design quality.

## **Proposal 12 – Expert body to support design codes / 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.]*

Yes in principle. A design body to support local planning authorities could be important to drive forward the design agenda, as many authorities simply do not currently have specialist urban design skills available. The paper talks about improving resources for LPAs but there is concern this may not be new resource just reorganising existing establishment. LPAs would benefit from in-house design expertise rather than yet another national body.

Many Councils will struggle or be unable to produce local design codes in house; however we would be cautious of commissioning a Code where its authors may have had limited (or no) experience of front line planning and the often challenging negotiations relating to design quality. Codes do not always guarantee better quality.

We do wonder whether time has actually overtaken this question, as it is understood that Nicolas Boys Smith has been appointed to lead a national design body that has been tasked with “driving up design standards” for planning applications.

We do feel that resources to improve design should be directed to front line services first and not focused upon a government ‘quango’.

Hart District Council already has a Head of Place, who is championing good design, but this needs to be supported across the whole authority to bring about the change needed.

## **Proposal 13 – Objective for Homes England to deliver 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.]*

Yes. Good design principles should weave through the operations of Homes England. The value of good design should be an important consideration. Giving greater emphasis within the strategic objectives of Homes England would hopefully aid to imbed design standards for affordable housing delivery.

We are aware that Homes England support and use Building for a Healthy Life. If more councils used Building for a Healthy Life a more consistent message would be conveyed across the country to the development industry.

## Proposal 14 – Fast-track for beauty

*20. Do you agree with our proposals for implementing a fast-track for beauty?  
[Yes / No / Not sure. Please provide supporting statement.]*

What is beauty and how will it be objectively agreed upon? Beauty and design are subjective and there is no binary yes/no to the concept of good beauty and good design. Planning is often more of an art than a science or engineering discipline and there is a risk that layers of prescriptive design guides and codes may only act to stifle innovative design, and result in an unsatisfactory objective assessment of a subjective matter. As noted above it is a concern if other standards, and compliance with policies – such as amenity space, highways standards should be relaxed for schemes which exhibit ‘beauty’.

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

Beauty/good design and fast-tracking do not sit comfortably with each other. Good design frequently takes time and is an iterative process – all too often the architect of a building focuses too much on the function and form of the building alone (frequently working to a client brief with clear requirements), rather than considering the building in its wider environment and what might be ‘best’ for that particular site.

The unintended consequence of this ‘fast-track’ approach may in fact delay delivery and place greater risk of unplanned, poorly designed schemes coming forward. This proposal seems to work from the starting point that ‘poor’ design is a significant reason for local objection to development. Whilst it may play a role, it is very rarely the sole or main reason for concern. Lack of local infrastructure to support increased population, traffic generation and extra burdens on local doctors and schools are usually of far more concern to local residents. These issues cannot simply be addressed through design guides and codes.

We have strong reservations of the existing permitted development rights system. Allowing for an extension of this to ‘popular and replicable’ forms of development nationally will surely lead to standardised development across England which would seem counter to the emphasis on locally determined design standards.

The term “gentle intensification” of towns and cities is used but not defined, and is likely to cause alarm of uncontrolled development.

### Pillar 3 - 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]*

- Urban design – and creating ‘places’ and ‘communities’
- Sustainable construction, maximising the opportunity for renewable energy and low carbon technologies;
- Development in the right places, well connected locations, building on existing connections and providing new links. Note Hart’s Green Grid strategy;
- Infrastructure to support growth – education, community facilities, parks and countryside, indoor and outdoor sport,

Affordable homes are technically not infrastructure in the same sense of the word. The planning system does not provide affordable homes to mitigate the impact of development. The planning system delivers affordable homes in order to deliver mixed and balanced communities.

### Proposal 19 – Abolish S.106 contributions and reform CIL

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.]*

Clearly a simpler system would be welcome by LPAs and the development industry alike.

It is acknowledged that the existing S106 approach to planning contributions can contribute to some delays in bringing development forward, and the way it is negotiable means that often developers are not paying what they ought to be paying towards infrastructure as there is pressure on the local planning authority to approve a ‘viable’ development that will get built.

The existing CIL system is much clearer and fairer, and provides certainty to the development industry. The fact it works as a tax and is non negotiable means it works very well.

One advantages of a levy over s106 is that a levy works well for the cumulative effects of small developments. The levy should therefore be set very low to include single dwellings and large extensions to homes. As a minimum the current CIL threshold should be used i.e. 100m<sup>2</sup>. However, we would urge a smaller threshold of 50m<sup>2</sup>.

The benefit of the S106 system allows for those sites allocated in local plans to have any development requirements identified and specified in policy, allowing developers to calculate development costs. S106 are also legally binding so provide security with transparency of costs and who/what is to be provided. These also allow for contributions to matters that potentially are not strictly infrastructure – community liaison officers; air quality monitoring; contributions to ecological off-setting pot etc.

The issue of viability typically arises because the developer has paid too much for the land in the first place and has not fully tested application of all the policy and mitigation requirements. So the calculation of development value will potentially lead to extensive debate on the assumptions applied, particularly if the market is uncertain and there are variations in costs of borrowing.

Any new levy should be designed to ensure that the ability to deliver affordable housing is not impacted adversely, and it will therefore be essential to ensure mechanisms are in place to protect the delivery of affordable housing.

It is not clear how the new Levy will be enforced, but there will need to be some mechanism, either through a legal agreement or a contract between the developer and the Local Planning Authority.

*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]*

Given wide land value variation across the Country, to reflect local values and uplift this needs to be set locally based on local evidence on viability, infrastructure requirements and affordable housing needs. The huge variety in development values across the Country mean a nationally determined rate cannot reflect this local variation. A flat national rate would significantly disadvantage less viable areas risking the provision of infrastructure and delivery of affordable housing.

*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.]*

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

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

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

Yes. Providing greater powers and flexibility to local authorities to deliver infrastructure is supported. It is important that infrastructure should be in place as soon as it is required. However, there needs to be a strong and assured mechanism in place so the local authorities know they will be fully re-paid and in a timely way. Developers cannot be permitted to wriggle out of any Levy commitments.

### **Proposal 20 – Extend scope of new Levy to capture change of use through PDR**

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

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

Yes. Given the relaxation of permitted development rights and the fact that large developments can currently happen without any contributions is flawed and puts pressure on existing systems and provision. It seems only fair for those schemes to contribute to overall infrastructure improvements.

### **Proposal 21 – Deliver affordable housing through new Levy**

24(a). *Do you agree that we should aim to secure at least the same amount of affordable housing under the Infrastructure Levy, and as much on-site affordable provision, as at present?*

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

Yes. The aim should be to secure at least the same amount of affordable homes as under the current planning system and to maximise the amount of on-site provision.

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

Appropriate policies should be in place to assist local authorities in securing the required level of affordable homes locally. Providing affordable homes on site presents the best value for money and would ensure that good quality, affordable homes are developed on sites that are well-designed places, creating mixed and balanced communities.

In our response to the 'Proposed Changes to the Current Planning System' we highlighted our concerns around the introduction of the First Homes initiative. It is fundamental to question whether the approach can truly be described as an affordable product to benefit those in most need.

The definition of affordable has had two long standing threads:

- a. People like the National Housing Federation have long argued that no more than 35% of a household's income should be spent on total housing costs; and
- b. A unit is only affordable if it is cheaper to buy or rent than the equivalent size of unit on the open market in that area.

A blanket approach (one size fits all) does not reflect local circumstances which do vary across the country. For example, if one was discounting a £250,000 flat in Hart. Assume 10% deposit (£25k). If the unit was discounted by 30% (£75k). This still requires a mortgage of £150,000. Based upon a mortgage company lending 3x one salary plus 1x another. This requires a couple to earn £37,500 each. This needs to be considered that the average UK salary is £32,000. This type of affordable homes is not really dealing with the key issues we have with people in housing need. Even key workers in health or education would not be able to afford this. We are also concerned that given the how important it is to supply genuinely affordable homes, that the First Homes initiative would top slice 25% of all of the affordable home element, only to supply something which does not assist those households in priority need in Hart District. Viability of schemes will mean developers would be unable to provide the First Homes element on top of the other affordable home requirement.

*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.]*

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

Preference would be to secure affordable homes on site as in-kind payment as this can be agreed from the early stages of the development application and can therefore be informed by identifying housing need and the required tenure mix.

However, further detail and consideration is required regarding how the in-kind mechanism would work, specifically relating to the following areas:

- Further detail is required regarding at what stage an registered provider would need to confirm purchase of the affordable homes on site, and how it would be dealt with under the levy if a registered provider could not initially be secured or latterly pulled out of the purchase. These issues would currently be dealt with through a cascade process in the S106 agreement.

- Any changes made should not act as a barrier for local authorities to secure the size, type and tenure of affordable homes on site which meets their local identified need.
- It is unclear how the agreed affordable housing delivery, and any specific requirements such as provision of accessible housing would be recorded for each site, and whether a formal agreement (similar to a S106) would be drawn up for each site to accompany policies outlined in the IL.
- Any change in the mechanism used to provide affordable housing must ensure that sufficient protections are put in place to prevent there from being a decrease from the current levels of affordable housing delivery because of other competing demands for infrastructure on the IL funds.
- More detail regarding the Right to Purchase model would also be required. From the information provided this option seems to give less certainty for the local authority about what housing units would be provided, and more scope for the developer to decide what units would be offered as affordable housing. The properties offered may therefore not meet the housing need identified by the local authority.
- Further clarification is required regarding the suggested threshold for smaller sites. Any change made should not adversely affect the provision of affordable housing.

It is stated that under Right to Purchase, the proportion of affordable homes which could be purchased by a local authority / registered provider would be set nationally. A blanket approach to setting a proportion is of concern and will not take into account local market conditions and housing need. This national approach could result in some LAs receiving lower delivery of affordable homes than they currently do. Equally in some areas, a significant increase resulting from a blanket approach could cause viability issues.

*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.]*

Under the proposal it is suggested that local authorities would be able to 'flip' a proportion of units back to market units in the event of a market fall which could prevent sites from becoming unviable. However, any mechanism put in place would need to be robust and prevent abuse from developers seeking to regain affordable housing units unnecessarily resulting in less affordable housing provision on site.

If a process is implemented which could result in potential abuse from developers, this will cause uncertainty regarding the on-site affordable housing provision that will not only negatively impact on local authorities, but also registered providers who will have calculated any bids for sites based on the initially stated affordable housing numbers. This could ultimately result in RPs becoming risk adverse when

considering bids on new sites and potentially cause barriers to provision of affordable homes on site.

To overcome the above concerns, but to allow some discretion where it is evidenced that genuine viability issues have arisen, a sensible approach would be to only allow consideration for an local authorities to 'flip' affordable housing units where it is evidenced that the site would otherwise become unviable and not to do so would prevent completion of the site.

*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.]*

Yes. It is vital that any approach taken ensures that affordable homes are well-designed and good quality. The current system does allow for this as space standards apply, we request small clusters of the affordable homes and for the affordable homes to be indistinguishable from the market homes. Registered providers can negotiate what is included in their contracts to meet their requirements too.

We are very concerned about the statement that "local authorities have an option to revert back to cash contributions if no registered provider will take them because of poor quality". We feel that this contradicts the overall message of this paper that government wants to improve quality of housing developed. It is our view that all the housing including the affordable units should be high quality and this should be made clear from the outset in developers' advice and guidance, with strict policies outlining the expected levels of standard, and for these to be enforceable. We are concerned that some developers could use this as an excuse to be released from providing affordable homes on-site by designing and building something that no registered provider would take resulting in a loss of affordable homes being provided on site. In addition, there could be occasions where a registered provider may take the low-quality homes resulting in local authorities needing to deal with on-going issues and complaints arising over time from their tenants.

Often the affordable housing is a higher space standard and quality of finish than the lower end market homes built by the same developer on the same site. Any new arrangements should ensure that they protect the quality and high standards for affordable housing.

Whilst there are some benefits to having the option to purchase the land such as more direct control over what is built, the design, quality and standards, size, mix and tenure, if you are not a stock holding local authority with development resources, this option is limited. It may be that the local authority would have to sell the land on to an RP who could build out the land for affordable housing.

Alternative option: "First refusal" right for local authorities or a registered provider to buy a set proportion of on-site units at a discounted price. This option could allow a

local authority to have greater flexibility over the location, type and mix of affordable homes on a site. However, we are concerned that the developer will have discretion over which units are sold. This may mean that the affordable housing units are the least desirable plots and properties and of least value to the developer and also creates uncertainty about which sizes and tenures will be delivered and then we run the risk that they will not meet the local housing need.

## **Proposal 22 – More freedom to LPAs on how to spend new Levy**

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

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

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

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

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

Yes. Local authorities should have more freedom in how they spend the IL as they can identify local requirements and priorities. A certain amount of the Levy funding should be ring-fenced for affordable homes to ensure that the local authority can spend money on this as and when it is needed and to ensure that it is not always overlooked and does not receive any funding where affordable housing may not be a political priority despite their being a proven affordable housing need.

In some areas there may be a need for supported or specialised housing which are more expensive to deliver e.g. dementia units, supported housing for people with a physical or learning disability. If the local authority has fewer restrictions on how they spend their levy and ring-fenced money for affordable housing they have the flexibility to provide more expensive specialised housing as and when the need arises.

Further information would be required regarding what mechanisms would be in place to allow a local authority to ring-fence funds for affordable homes, and how the proportion to be ring-fenced for affordable homes could be decided.

## **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?*

If the level of affordable housing is reduced as a result of these changes to the planning system, then many people who access affordable homes who may well represent people with protected characteristics may be adversely affected.

**Hart District Council  
October 2020**