

## Appendix A

### Response to Planning White Paper – Planning for the Future

#### Pillar One – Planning for development

##### A NEW APPROACH TO PLAN-MAKING

**Proposal 1: The role of land use plans should be simplified. We propose that Local Plans should identify three types of land – Growth areas suitable for substantial development, Renewal areas suitable for development, and areas that are Protected.**

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

No.

The Council accepts that the current Local Plan system would benefit from some changes and improvements to speed up the process, make it more accessible and simplify the nature and extent of evidence required to justify Local Plan strategy and policies. However, in a densely-populated country, with a multiplicity of pressures (environmental, economic and social), a strong level of public engagement in the planning process (at various levels) and political decisions to be made on appropriate strategies for the future of local areas, decisions on where significant new growth could/should take place, and the policies and infrastructure to support this growth, will rarely be straightforward and uncontroversial.

The proposal to categorise land into one of the three categories seems superficially attractive. However, as the White Paper recognises, sub-categorisation would, in reality, be vital, as there will be considerable differences between different kinds of activities/proposals within the categories (gentle densification of residential areas and small development sites on the edge of villages in the proposed *Renewal* areas, for example), as well as overlaps between categories (for example where there is a strategy for regeneration that covers a Conservation Area). What is therefore less important than the broad category that a parcel of land is within, is the precise detail of what is proposed, expected or allowed to happen (or not happen) to that land. There is potential for the proposals to result in confusion or a lack of proper planning, if national policy tries to over-simplify a practice that should be responsive to the characteristics, issues, pressures and aspirations of the area being planned for, and which reflects the diversity of different places across the country.

##### Growth and Renewal areas

Taking this theme forward, there would seem to be relatively few benefits in having separate *Growth* and *Renewal* areas – the first alternative option set out in the White Paper (paragraph 2.11). Instead, a combined *Growth/Renewal* category could usefully encompass:

- i) New (greenfield) allocations, covering everything from 5-10 dwellings upwards (or equivalent for other kinds of development); and

- ii) Significant brownfield sites (if individually large enough), or larger areas within which some regeneration is expected or could take place (such as more urban areas with a number of existing or potential brownfield sites).

The granting of permission in principle would be more appropriate for greenfield allocations, as long as there would still be scope for masterplanning/design briefs to flesh out the details appropriately (with local consultation). Masterplanning (or equivalent) would be absolutely crucial to securing an appropriate form of development as it will not always be possible to know every detail of a scheme (and the land it sits on) at the Local Plan stage.

The White Paper suggests that areas of flood risk (and other constraints) would be excluded from *Growth* areas, unless any risks can be fully mitigated. Whilst there is some logic to this, in reality, especially for many larger sites, it is almost certain there will be some environmental constraints (and quite possibly some 'social' constraints too, such as highways infrastructure and education capacity). It is often sites with complex constraints, in particular brownfield sites in urban areas, that need a strong policy position encouraging their regeneration and which set out clear parameters for their future development. Requiring Local Authorities to demonstrate that such constraints could be "fully mitigated" such that permission in principle would be granted is likely to be a more labour-intensive and expensive process than the current allocations process, and is likely to be very challenging if not impossible in the short time-frames in which new Local Plans are proposed to be prepared under Proposal 8.

The granting of permission in principle is also further complicated by the existence of an established 13km Zone of Influence on Protected Sites (SPA, SAC and Ramsar) across the vast majority of East Suffolk. The need for Habitats Regulations Assessment and necessary mitigation has prohibited the use of permission in principle across most of the district. It is likely that most areas that would be identified for 'growth' would also fall within this area.

#### Existing residential areas

For areas which are largely or entirely residential (and so not likely to change greatly over time), a separate categorisation dealing with the most common kinds of proposals (largely extensions and rebuilds, perhaps with some backland development/intensification if appropriate) would seem sensible. The creation of SPDs/Design Guides, which could vary in their spatial coverage and requirements (depending on the characteristics of the area) could help with simplifying the process of handling proposals, at least in some areas.

It would make more sense for the status of gardens to be considered in this new zone, rather than as a Protected Area. That way, individual LAs could consider what is the most appropriate path to take in their area (with there likely being differences in the ways that gardens are treated in different parts of their area – in some cases, "gentle densification" could be appropriate, but in others not so).

However, it should be recognised that householder applications (going beyond the scope of what is allowed through permitted development rights) can frequently raise strong emotions from neighbours and others in terms of potential amenity, over-shadowing and

over-looking effects, materials choices, car-parking etc. As there is such a variety of different residential dwellings, and set in different environments, it is therefore not likely to be practicable to come up with a one-size-fits-all set of design parameters which could be applied to all scenarios – in other words, the exercise of planning judgement by the local authority will still be necessary on many such proposals. Certainly there should not be any presumption of an automatic permission in principle.

### Protected areas

The proposed use of “Protected” as an umbrella term for sites and areas with particularly sensitive characteristics is unhelpful. No matter the effectiveness of the messaging in the production of Local Plans, it is likely to be misunderstood by a proportion of the public as meaning “protected from any development”, when – as paragraph 2.8 of the White Paper makes clear – it instead means “*more stringent development controls [than in other areas] to ensure sustainability*”. A different term such as Area of Restraint” “Constrained land” may be more appropriate.

Having appropriate planning controls over development proposals in such areas – derived from a mix of national and local policies – is broadly the same approach as currently practised and is sensible. Not all “constraints” designations will carry the same weight, however – land in Flood Zone 3 and in Areas of Outstanding Natural Beauty are more towards the high end, and “open countryside” not in Growth/Renewal/Residential areas towards the low end. It is important that LAs have the ability to continue to distinguish appropriately between these constraints in the preparation of Local Plans – in effect, “sub-zones”, where controls may be stronger, less strong or simply different (as appropriate).

There are large swathes of generally undeveloped countryside in East Suffolk that are not covered by designations such as AONB but that, by virtue of not being identified as ‘growth’ or ‘renewal’ areas, would fall within the category of ‘protected’. These areas support rural businesses and small communities, with planning policies in the current Local Plans enabling some development to take place, albeit that opportunities are more limited in acknowledgement of the sustainability and environmental effects that more significant development would have. Such development includes, for example, affordable housing on exception sites or tourism uses.

The Council has comments on some particular constraints:

#### *Flood risk*

The current approach – where flood risk carries significant weight but matters such as the Sequential Test and Exception Test can be applied appropriately to assist with (for example) brownfield/town centre regeneration – should be carried forward broadly unchanged.

#### *Coastal erosion*

East Suffolk has a long and vulnerable coastline, with erosion an ongoing and serious issue. The designation of Coastal Change Management Areas in Local Plans is seen by the Council

as a useful tool to guide appropriate (and restrict inappropriate) development in such areas, such that local flexibility can be applied.

Managed realignment, and the benefits of applying such an approach in particular locations in England, is a key issue, and the Council recognises the work that Defra and the Environment Agency have been doing. The Council is a member of Coastal Partnership East, alongside Great Yarmouth BC and North Norfolk DC, and sharing resources and expertise has been very effective across Norfolk and Suffolk, but some further policy support for realignment in the NPPF and PPG (as well as in Defra guidance/policy) would be very useful.

#### *Areas of Outstanding Natural Beauty*

Much of the East Suffolk coastal area falls within the Suffolk Coast and Heaths AONB and large-scale growth in the area is not likely to be appropriate. However, some growth – to enhance the social and economic sustainability – of certain settlements will continue to be appropriate. By way of an example, the recently adopted Suffolk Coastal Local Plan contains two site allocations for housing development within the Suffolk Coast and Heaths AONB, recognising that communities in the AONB need to continue to evolve. Under the proposals, these are likely to be ‘renewal’ areas rather than ‘protected’, and therefore there needs to be scope for overlap and nuances, rather than sweeping policies that would categorise the whole AONB as ‘protected’.

#### *European nature conservation sites*

East Suffolk has seven Special Protection Areas (SPAs) and/or Special Areas of Conservation (SACs) within the district, plus the Broads SAC and Broadland SPA adjoining parts of the district, within the Broads National Park.

Areas within SPAs and SACs are, rightly, subject to a very high degree of protection from inappropriate development. However, there are “zones of influence”, outside the directly designated sites, within which development and activities can impact on SACs and SPAs (such as through recreation). Whilst in some cases appropriate scheme design and/or mitigation can ensure that new development can go ahead, this is not always possible, and the higher the level of growth proposed, the greater the level of pressure. This therefore doesn’t mean that everywhere beyond the actual site is unconstrained, and this could therefore have impacts on, for example, the ability to grant permission in principle.

#### *Conservation areas*

Conservation Areas are not “Preservation Areas”, and some appropriate growth and change may still be acceptable in them – indeed, some development can sometimes actually bring benefits (the same can apply to listed buildings). This is the case with the North Lowestoft Conservation Area, a large part of which is included in the North Lowestoft Heritage Action Zone. In 2020 the Council adopted a Supplementary Planning Document for the Heritage Action Zone which will complement planning policies in the Waveney Local Plan in seeking positive change within this area. As with Natura 2000 sites the ‘zone of influence’ can extend outside Conservation Areas themselves, furthering the need for a more nuanced approach than simply allocating them as “growth” or “protected” areas.

## Format of new style Local Plan

Whilst the detailed proposals for map-based Local Plans are set out under Proposal 7, it is noted that under proposal 1 the intention is for the new style of Local Plan to be an attractive web-based map where data and policies are easily searchable, with a key and accompanying text. The Council is supportive of the Government's ambitions for Local Plans to be increasingly digital, however as set out above there would need to be scope maps to show nuances and locally specific policies within the three categories.

## Conclusion

For the reasons set out above, the Council is concerned that designating every piece of land in one of three proposed areas is an over-simplification of what is (and always will be) a complicated picture. Striking the right balance between environmental, social and economic considerations to deliver sustainable development will sometimes be fairly easy and obvious, but will often not be, with compromises necessary, and different views (which can be held strongly) on what the right balance should be. A common theme in the White Paper is that better quality and quantity of data will help lead to more rapid and better quality Local Plans and decisions, and whilst there is definitely something in this, in most cases planning judgment is needed to ensure the right decisions are taken.

This is especially true of plan making, where so many possible strategies or solutions may exist to address what are a complex set of issues and opportunities, and where genuine public consultation needs to inform the decisions that are made. All too often the public feel as though they have not properly been heard when making comments during the preparation of a Local Plan, regardless of the time and careful consideration of comments that is undertaken by the local planning authority – an over-simplified, “computer says no/yes” approach, will not engender full public confidence in the revised planning system.

## **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.]*

Not Sure.

Many Local Plan policies are generally consistent between Local Planning Authorities and within East Suffolk we have attempted to produce consistently worded development management policies across both of our recently adopted Local Plans covering the former Waveney and Suffolk Coastal areas. However, established differences in policies and local priorities inevitably create subtle differences and area specific policy differences.

Policies covering design considerations such as aesthetics, function and living conditions and technical matters like flood risk are not entirely specific to East Suffolk over any other area. In respect of these types of policies we believe there may be scope for nationally set considerations through the NPPF or an update to the NDG. Such an approach would require a change to planning law to enable national policy to afford the same weight as the development plan under Section 38(6).

Local Plans need to be able to address local distinctiveness and local design expectations. It may therefore be appropriate to operate a dual policy process, where both national and local policies afford equal weight allowing local design expectations to be fundamental development management considerations. These may include greater emphasis on dementia friendly design or the use of specific methods of design appraisal (eg. Building for Life or a local design guide). Beyond these policies it is likely to be too challenging to address the nuances and individuality of all LPAs through a single approach.

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

*Questions 7(a). Do you agree with our proposals to replace existing legal and policy tests for Local Plans with a consolidated test of “sustainable development”, which would include consideration of environmental impact? [Yes / No / Not sure. Please provide supporting statement.]*

Not sure.

Sustainability Appraisal in particular has become an often unwieldy and over complicated process, resulting in documents that are hundreds, if not thousands of pages of long and mean little to the local communities engaged in the plan making process. However, what these sometimes excessively complicated and long documents often mask is effectively a simple and useful process which should (when done well) provide a sound tool for balancing priorities across a plan area. Any alternative to the current system should recognise the wider considerations associated with Sustainability Appraisal. Replacing the current SA process with one based on a much narrower definition of sustainability (focused on environmental factors) risks reducing opportunities to balance the, often competing, considerations of social, economic and environmental impacts which is a key element of the plan making process and ensuring the necessary mitigation is included through policies.

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

The current approach to cross boundary strategic planning through the Duty to Cooperate is clearly not working, as exemplified by various examples across the country including failing to pass the legal test, which is assessed at a very late stage in the plan making process and the associated implications.

There needs to be a return to a higher level of strategic planning that integrates place making and investment priorities and is bottom up and top down. It should be all embracing and include economic growth, infrastructure planning and transport agendas, as well as climate change, health and well-being. A starting point would be to have a collaborative approach to place-based growth across government departments. This joined-up and shared vision and direction could be instrumental in driving forward and supporting a new approach to strategic planning, at the regional or national level but preferably both. An integrated and national collaborative approach could be a strong tool in delivering on the Government's 'levelling up', economic growth and climate change agendas and provide a clear vision and greater certainty for all parties involved in place making, the delivery of growth/regeneration and investment in infrastructure in its widest sense at all spatial levels. Clarity and certainty are crucial in underpinning the delivery of excellent place making.

Alongside any new approach to strategic planning, collaboration between Councils and other organisations at a lower level should of course continue. This could usefully continue through voluntary Statements of Common Ground that evolve over time and set down clear decision making in moving issues forward. This approach has proved a useful basis for collaboration and collective place making for the Ipswich Strategic Planning Area.

On a final point, it may have been more fruitful to have been able to consider the way forward for strategic planning alongside any impending Government proposals for local government reorganisation. As it is, the way forward for planning has been considered in isolation of the potentially bigger picture. Notwithstanding this, the principles of the above response still stand.

**Proposal 4: A standard method for establishing housing requirement figures which ensures enough land is released in the areas where affordability is worst, to stop land supply being a barrier to enough homes being built. The housing requirement would factor in land constraints and opportunities to more effectively use land, including through densification where appropriate, to ensure that the land is identified in the most appropriate areas and housing targets are met.**

*Questions 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.

The Council has separately submitted comments to the consultation on Changes to the Current Planning System which sets out proposals for amending the standard methodology for assessing local housing need. The Council acknowledges that the White Paper states that the future application of the formula proposed in the revised standard method consultation will be considered in the context of the proposals set out here, and the Council's response here therefore reflects the outputs of the revised standard method calculation and our response to that consultation.

Our response to the consultation on Changes to the Current Planning System set out the calculation for East Suffolk using the proposed standard method, which would provide a housing need of 1,660 dwellings per year. This is compared to the housing need figure calculated under the current methodology (as at 1.4.2020) of 866 dwellings per year and the requirements currently being planned for in the Suffolk Coastal Local Plan and the Waveney Local Plan totalling 916 dwellings a year. The new standard method clearly results in a very significant increase that would be extremely difficult to deliver not only considering any environmental constraints but also the capacity of the development sector to deliver at that scale.

The Council can certainly see the merits in having a standard method to a housing requirement that doesn't need to be tested through Examination, having just gone through the Examination of the Suffolk Coastal Local Plan which, in accordance with the NPPF, contains a housing requirement which applies the standard method. Whilst the requirement of 542 dwellings per year is greater than the past requirement of 465 it is considered achievable and the Council has over-allocated by a factor of 16.5% as a means of planning positively to meet and exceed this figure.

We will not repeat our detailed concerns made against the Changes to the Current Planning System consultation here, but will focus on the specific proposals set out in the White Paper.

The Council is concerned that the approach to housing requirements is being driven by the goal to build 300,000 dwellings per year. This top down approach will no doubt constrain the extent to which the considerations set out in paragraph 2.25 of the White Paper can influence the setting of appropriate housing requirements for each local planning authority area. It is not clear whether there is any flexibility in the figure of 300,000 should, having gone through a robust approach of considering constraints and opportunities at the local authority level, the amount of growth be either unachievable or is undesirable in planning terms.

Under the proposals, it appears that the matters that would be had regard to in establishing the housing requirement (under paragraph 2.25) would be determined by the Government and handed down to each local planning authority. Local planning authorities are best placed to fully understand the opportunities and constraints that exist in their area and therefore need to play an active role in the process of identifying appropriate requirements. This should be undertaken outside of the proposed 30 month time frame for producing a Plan. Statutory consultees are also important in this respect as the Government would no doubt not wish for plans to be held up later on due to objections from statutory consultees which are difficult to reconcile due to the scale of growth.

Looking at each of the factors set out under paragraph 2.25 in turn:

- 1) The size of existing urban settlements. This assumes that urban settlements have more capacity to absorb new housing growth than rural locations. In reality, whilst in principle it is more sustainable to expand existing urban settlements, just focusing on their size seems to be a rather simplistic way of looking at this. Where urban areas

are located on a peninsula (such as Felixstowe) or adjacent to the coast (such as Lowestoft and Felixstowe), there is by their very nature less room to expand – how would this be factored in? Many urban areas are constrained by environmental designations or areas of flood risk and therefore the location (not just extent) of land constraints would need to be part of the consideration (see response to land constraints below). Also, urban settlements have very different roles, regionally and nationally – how will consideration be given to the functions of urban centres?

- 2) Relative affordability. Looking at the published ratios of median house price to median gross annual workplace-based earnings by local authority district, for 2019 (published in March 2020)<sup>1</sup> it is not clear how this consideration will relate to other factors and to any wider national ambitions. Some of the areas with the highest affordability ratios are in London where land is severely constrained in many cases, whilst areas in the north of England which may have aspirations for growth have relatively low affordability ratios. The standard methodology already has two uplifts to address affordability, so adding a further uplift, or a possible decrease, into the requirement seems to be undermining the process already gone through in the standard method.
- 3) The extent of land constraints. Whilst it is sensible to consider land constraints, this needs to be carefully thought through to ensure it isn't undertaken in too simplistic a way. The most sensible approach would be to look at land that isn't constrained and consider the scope for accommodating development on that land. Not all constraints related to designations are confined to the designated areas themselves. For example, much of East Suffolk is within an established 13km zone of influence within which new development would lead to impacts of recreational disturbance on European Sites (Special Areas of Conservation and Special Protection Areas). Whilst measures to secure mitigation are in place in relation to current growth, this would need to be a factor in determining whether considerably higher levels of growth can reasonably be accommodated and isn't something that can be properly understood through only looking at mapped land constraints.
- 4) Opportunities to better use brownfield land for housing. The White Paper states that the requirement figure will expect brownfield opportunities to have been fully utilised before the land constraints are taken into account. From this, it seems that unless brownfield sites have been developed / permitted / allocated then environmentally sensitive areas may need to be compromised. Whilst the Council fully supports the regeneration of brownfield land, the logic behind this seems flawed – allocating more greenfield land is not going to help brownfield land come forward. Brownfield sites are the most difficult to develop and with a finite capacity

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<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoworkplacebasedearningslowerquartileandmedian>

in the development sector no doubt greenfield sites would be developed first. If it is intended as a 'stick' to ensure that local authorities focus on brownfield sites this isn't the right solution. Brownfield sites often have complex issues, such as fragmented land ownership, and the Council's Housing Action Plan notes that the reasons for past under-delivery in the former Waveney District have in many cases been down to complex brownfield land allocations. East Suffolk Council is actively working to bring forward brownfield sites such as the Kirkley Waterfront and Sustainable Urban Neighbourhood in Lowestoft through partnership working - diverting resources and attention to the allocation of more greenfield land is not going to help such sites come forward. Further, urban areas have evolved and changed through time and there is always likely to be an element of brownfield land which at any point in time is not being used or redeveloped.

- 5) The need to make an allowance for land for other non-residential development. This is essential, as needs for employment, retail, community uses, infrastructure etc need to be planned for alongside housing. As well as built development this should also include open space and green infrastructure which is essential to support existing communities and new housing.
  
- 6) Inclusion of an appropriate buffer to ensure enough land is provided to account for the drop off rate between permissions and completions. The Council has very significant concerns about this, as raised in our response to the consultation on Changes to the Current Planning System. Like many Local Plans, the Suffolk Coastal Local Plan and the Waveney Local Plan plan for a contingency above the housing requirement (16.5% and 12% respectively excluding windfall). Adding a contingency into the requirement itself is inconsistent with the Housing Delivery Test (and the requirement to maintain a five year housing land supply noting that there is a proposed option to remove this) whereby authorities are measured against the requirement, and are able to plan for a contingency above this to provide them with greater confidence that requirements will be met, the triggers for the presumption in favour of sustainable development will not be met and a plan-led approach can be maintained. Including a contingency in the requirement is setting local authorities up to fail. Guidance on an appropriate level of contingency (as a range not a precise percentage), above the requirement, would however be supported to save having debates on an appropriate level during the Examination process.

In addition to the factors above, a further factor that needs to be included is a consideration of recent levels of growth and current housing requirements. A sudden step change would be difficult to deliver, in terms of both the development sector and also in terms of infrastructure provision and impacts on communities. There should therefore be a cap on the level of increase on existing figures that can be applied, of say 25%, to allow any increases to be more manageable.

The factors set out would need to be balanced against each other through use of sound planning judgement, rather than being considered through some form of 'scoring' or overly numerical or rules based method. There are overlaps, for example an area may have affordability issues yet equally may be constrained by environmental designations.

For an approach to setting housing requirements at the national level to really work there would need to be some form of overarching national spatial strategy to inform the distribution of growth and an overall housing target for the country. Looking at constraints, issues and opportunities by authority on a piecemeal basis to meet a pre-set figure of 300,000 dwellings does not seem to represent the best way in which to plan to really make the most of opportunities and address the issues identified in the White Paper.

The proposals involve removing the requirement to demonstrate a five year supply of housing land. East Suffolk can demonstrate a five year supply of housing land however strongly supports the removal of this requirement. Having produced a Housing Action Plan in 2019 and updated it in 2020, as a result of the Housing Delivery Test for the former Waveney area, the Council considers this to be a much better tool for boosting housing supply as it enables the reasons for under-delivery or likely issues in the future to be analysed and appropriate actions put in place. The Housing Land Supply report, on the other hand, does not provide the same focus as it is really aimed at passing a test and demonstrating a number greater than five. There are flaws in the numerical approach to Housing Land Supply, for example a better result will emerge if houses are completed in April rather than March in circumstances where there is no past shortfall or the standard method is being used. The extensive engagement with developers and agents could be put to much better use if the focus was on informing the Housing Action Plan, where one is needed as a result of the Housing Delivery Test.

In combination with other proposals in the White Paper, the potential increase in housing requirement will result in East Suffolk having to prepare a Plan for double the growth within a much condensed time frame whilst achieving best in class public involvement. This would pose a serious and likely unachievable challenge.

*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.

See response to 8a above.

## **A STREAMLINED DEVELOPMENT MANAGEMENT PROCESS WITH AUTOMATIC PLANNING PERMISSION FOR SCHEMES IN LINE WITH PLANS**

**Proposal 5: Areas identified as Growth areas (suitable for substantial development) would automatically be granted outline planning permission for the principle of development,**

**while 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.]*

No.

Sensitivities don't stick to boundaries. Automatic permission still requires all outline considerations at local plan stage. This needs a substantial evidence base and assessment irrespective of the level of design detail. Under a faster Local Plan process this would be compounded into a rushed and potentially unsound position. By frontloading this to the Local Plan stage it just shifts to points in time where expense and time is required. It would bring negotiation forward too early and in a constrained timeframe. Attention of officers would be spread across multiple sites rather than allowing a well-resourced focused approach on each submission as it comes forward. We believe that through well-resourced planning authorities the existing staged process of allocation followed by a planning application could be improved but ultimately is a trusted and sound process.

This approach also curtails the positive opportunities for collaborative pre-application design. Design is essential for the consideration of the principle of development, particularly if setting some design expectations within the allocation.

*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.]*

No.

This, along with 'Growth areas' would be confusing and divisive. Rural districts cannot be designated in such simple terms. It is not clear how Protected Areas would be defined and existing boundaries (e.g Conservation Areas and AONB) to not define the extent within which a higher level of protection is required, external influences on these areas can be highly significant. It should also be noted that existing Habitat Regulations protected sites (SPA, SAC, Ramsar) have zones of influence which are far reaching. In East Suffolk these are established at 13km from protected sites and due to the extent of protected sites we have, the majority of the district can have significant effects on those. We already know that this can effect other existing processes such as the use of Permission in Principle and we anticipate that it would be exceptionally difficult to designate areas within our Zones of Influence as Growth Areas.

As well as our established Zone of Influence for residential development and European designated sites, some types of development can also have impacts on nationally and locally designated sites. In particular, some SSSIs could be vulnerable to developments some distance from their boundaries (e.g. through air quality or hydrological impacts) which the

current proposals don't seem to consider. The existing Natural England SSSI Impact Risk Zone (IRZ) dataset is available to help assess such impacts.

Its also not clear how this new zoning approach will match with the upcoming requirements of the Environment Bill, particularly the delivery of Local and National Nature Recovery Strategies.

It is also important to consider how the public might interpret these terms. The concept of Green Belt is already highly misunderstood nationally. Protected areas could be interpreted by the public in a similar way, therefore politicising the area definitions and creating a more challenging planning process.

*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.]*

Not sure.

Nationally there may be merit in this approach for the largest of new towns (e.g 5000+ homes). The largest garden villages/neighbourhoods planned for East Suffolk are for up to 2000 homes and we believe that this size is well below any threshold were an NSIP approach could be utilised. The current plan-led and planning application process is most suitable for the largest sites in East Suffolk. It maintains local investment and decision making in the planning process, it ensures that LPA's are compensated for the time and resources invested through planning application fees and it provides a better understanding of the housing delivery effects.

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

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

Not sure.

The Government should heavily value the benefit which time in decision making brings. Considerable attention should be given to reviewing a faster process to avoid an overly process driven approach. The necessary negotiation, consultation, re-consultation and appraisal required in many planning applications provides applicants with sound, robust decisions and provides clearer confidence in the planning system for our communities. In achieving good design and beauty, time will be required, and the best designs have almost always been formed through an iterative process and this is regularly valued by applicants despite the time it adds. It is therefore essential to maintain flexibility in planning decision timeframes and if an applicant and LPA can both agree on the value of taking more time through a formal extension of time then that should be an option.

In respect of smaller, simpler decisions we agree that a more refined, faster and efficient process could be achieved. The challenge for Development Management officers however is the management of multiple types of applications with different timeframes and if a large number of applications have shorter timeframes and therefore a condensed decision making period and therefore higher priority, how would this impact on attention given to those requiring more time. The benefits of multiple planning application routes are beneficial in making a dynamic and responsive planning system but effect on productivity of professionals managing a for more complex set of planning processes needs attention.

In respect of conditions, national standard conditions do have some merit and in principle there are efficiencies which could be achieved. Many LPA's have their own standard conditions but much of the time these do require amendment or adaption to the specifics of a site and its circumstances. Applicants also benefit from flexibility in conditions enabling them to be tuned in their wording to suit the approach to delivery or difference in detail already submitted. In reality therefore, nationally set conditions would not be beneficial in speed of delivery or improving outcomes in many circumstances. Effort should instead be invested in producing an up to date set of national template conditions and improved guidance to support them.

An alternative approach could be to adapt planning application forms to ensure that standard conditions are addressed by the applicant when making the application. For example, the materials to be used or future submission of landscaping details. The detail on the form could then become more binding and therefore would specifically be referenced under a condition alongside plans with the form dictating on what must be done and submitted after approval. This would immediately provide better certainty and clarity to LPAs and consultees and fast track consideration whilst also removing many examples of the need for prior agreement of pre-commencement conditions.

The proposals to automatically refund planning fees for applications should they not be determined with statutory time limits is a punitive measure which will arguably not benefit anyone (apart from applicants). There may well be good reasons, often beyond the local planning authorities' control, why decisions on applications take longer such as getting input from statutory consultees or because the information submitted with applications is poor or inadequate requiring further requests for information. Particularly for larger and/or more complicated applications, agreed extensions of time can often help lead to improvements in the proposal/key issues being addressed and amendments consulted upon. At best this can mean an application then being approved (or recommended for approval by the Planning Committee) and at worst some of the areas of disagreement might be able to be resolved, narrowing the areas to be addressed/considered in an amended application or appeal.

It is inevitable that, if automatic refunds are introduced, it will lead to a significant increase in the refusal rate by LPAs. This was the position some years ago, before welcome pragmatism was introduced to allow agreed extensions of time to "count" in the determination statistics. Councils do not want to be in a position of refusing applications that, for want of a few extra weeks' work to address outstanding issues, could be approved. In an ideal world all applications received would be complete, with all necessary information attached and all key issues addressed. Unfortunately, LPAs have to deal with the world as it

is, not as they would like it to be, and poor-quality applications – and applications through which issues arise unforeseeably – will continue to be a reality. In addition, an increased rate of refusal would lead to further pressure on the Planning Inspectorate; whilst the time taken to negotiate improvements to an application (through an extension of time) are often measured in weeks, even a simple appeal can take many months to reach a final decision.

Similarly, the Council **fundamentally disagrees** with the proposal to refund application fees where permission is allowed on appeal. There are, in the vast majority of cases, valid planning reasons why an application is refused. However, given planning is subjective in nature, and that new material considerations may emerge during the timescale of an appeal (especially if the appeal takes a long time), an inspector may – quite legitimately – reach a different conclusion balance to the LPA. Therefore this does not necessarily mean that the LPA was wrong to refuse the application; the Courts have made clear, in many different cases before them, that the decision-maker (council, Inspector or Secretary of State) has a wide degree of latitude in the exercise of ‘planning judgment’. In any case, inspectors already have the power to make awards of costs where councils (or, for that matter, applicants) are deemed to have behaved “unreasonably” in the determination of the application and/or during the appeal process.

## **A NEW INTERACTIVE, WEB-BASED MAP STANDARD FOR PLANNING DOCUMENTS**

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

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

Not sure.

There is certainly more that can be done to use digital technology to make Local Plans more visual and map-based. However, there are practical limitations to this.

The single thing that would increase the success and usability of greater digitech is the establishment of a common set of standards that all software providers would have to work to. If data and information all had to be produced or made available in a universal format (such as a .shp shapefile for GIS information), then this would mean that information provided through different PropTech software providers could be ‘read’ and merged universally (for, say, better assessing cross-boundary strategic planning issues etc).

East Suffolk Council has found that interactive online formats are useful tools for carrying out consultations and summarising reports. [A Summary of the East Suffolk Authority Monitoring Report 2018/19](#) is an example of how a relatively long and complex planning report containing detailed information can be made accessible to the public and provide local developers and agents with a useful snapshot of information. Visual and interactive

map-base information could be a useful initial source of information for landowners, developers, consultees and the public but such tools can never replicate or replace the level of detail currently provided in national policy, Local Plans, Neighbourhood Plans, guidance documents and design codes.

Standardised geospatial information could show the national policies (NPPF), Local Plan policies and Neighbourhood Plan(s) policies and land designations that apply to an area of land in the form of policy lists. This would provide a helpful starting point for landowners, developers and members of the public seeking information on planning policies and processes. However, visual and interactive map-based information would need to link to relevant documents and/or sections within documents that provide the necessary detailed information. It is unrealistic to expect a map-based format to show the level of detailed information currently contained in national policies, Local Plan policies and Neighbourhood Plans policies. Any map-based system that only provided information on Local Plan policies and excluded national and Neighbourhood Plan policies would have incomplete information and would fail to realise the full potential of digital technology.

Whilst a map-based format could list planning policies that may be relevant to an area of land, it is unrealistic to expect a map-based format to show how a wide variety of policies on topics such as the historic environment, landscape, flood, design and biodiversity etc, should be applied to a specific area of land without each LPA carrying out very extensive, expensive labour-intensive analysis of the land. The weight attributed to different national, local and neighbourhood planning policies would also be difficult to convey in a solely visual or map-based format. The relevance of different planning policies can vary depending on the type, size and scale of development proposed in an allocation/site. It will also never be possible to fully anticipate in advance the type of development that could be proposed by a landowner or developer on a given site, nor to anticipate changes in designs or materials etc that might affect what could come forward.

During the production period of a new Local Plan, it needs to be recognised that to properly consider some zones/allocations to the level of detail proposed in the White Paper (outline planning permission, in some cases), a significant level of work will be needed. It is also important to note that it is much more difficult to show infrastructure implications on a map, particularly with strategic cross-boundary issues – for example, how could potential increased traffic flows be shown?

Any 'model template' for a Local Plan would need to be capable of being altered to the accommodate the issues specific to Local Planning Authorities areas and sites, and issues raised by the community through consultations. The use of web-based formats that are accessible on a range of devices, instead of PDF-style documents, is supported by the Council.

Digital technology and new formats should not be provided in a manner that would replace or discourage early engagement with LPAs. Early discussions between landowners,

developers, consultees and LPAs are key to securing high-quality and beautifully-designed developments.

The IT skills and resources in LA planning departments to produce information in the digital formats proposed varies across LAs and would require a significant investment in IT software, IT officers and training of officers. Any requirement to rapidly introduce new digital formats could be very expensive, although the intention for pilot approaches is noted.

## **A STREAMLINED, MORE ENGAGING PLAN-MAKING PROCESS**

**Proposal 8: Local authorities and the Planning Inspectorate will be required through legislation to meet a statutory timetable for key stages of the process, and we will consider what sanctions there would be for those who fail to do so.**

*Question 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.

It is agreed that the Local Plan preparation process can take a long time and appropriate measures to help shorten it would be welcome. Some of the proposals set out in the White Paper to do this are supported by the Council (such as, in principle, simplifying the Sustainability Appraisal process). However, the Council has significant concerns about the proposed maximum 30-month timescale and comments on them below.

The Council has two recently adopted Local Plans which were prepared and adopted to a timetable which could be considered short when compared with other Local Plans under preparation. Work on the Suffolk Coastal Local Plan began in mid-2016 with a call for sites and evidence gathering, the Plan was submitted in March 2019 and was adopted in September 2020. Work on the Waveney Local Plan began in mid 2015 with a call for sites and evidence gathering, the Plan was submitted in June 2018 and was adopted in March 2019. The production of the two Local Plans to these timetables has required considerable corporate and political commitment, and a reasonably resourced planning policy team.

To draw up the Local Plan, including evidence, and submit and adopt successfully within 30 months, has a large number of contingent factors, including (not in any order of priority):

### *Key consultees*

A number of consultees need to be involved in the preparation of the Local Plan through its informative stages and beyond just submitted responses during specified consultation periods. The Council has worked hard to build up positive relationships with such consultees over recent years, and as such is very mindful of the resourcing pressures and competing demands that such organisations face. Ensuring that **all** relevant key consultees are able to engage and respond rapidly to requests for information, analysis and opinions is critical. The list of consultees includes (on the public sector/pseudo-public sector side):

- Environment Agency;
- Natural England;
- Highways England;
- County Councils (as relevant, especially as Lead Local Flood Authority, Highway Authority, Education Authority, Minerals and Waste Authority, Fire Services and Adult/Social Care Authority);
- Health authorities/Clinical Commissioning Groups;
- Police;
- Local Enterprise Partnership(s);
- Neighbouring authorities, especially in connection with cross-boundary strategic planning matters;
- Water and/or sewerage companies;
- Electricity supply/network companies; and
- Local Nature Partnerships.

Given the proposed introduction of mandatory timescales, with many Local Plans in England following a very similar preparation trajectory, there will be significant extra pressure on these consultees to respond to a high number of consultations/engagements at the same time. Given that many LAs have found it difficult to secure timely and proportionate consultation engagement from some or all of these consultees under the current Local Plan system (in part due to significant budget cuts in recent years to some of these bodies), the Council considers it inevitable that at least some of these consultees will need a major boost in resourcing to be able to meet this need, as well as ensuring that they have a full understanding of the planning system and their role within this. There are other consultees who charge for their time, and moving funds around the public sector/quasi-public sector in this way is not considered to be the most effective way of providing an effective and integrated planning system.

The provision of timely and beneficial information from such consultees is very often dependent on the individual contact, and therefore the role of these organisations in the planning system needs to be enshrined within the organisation from the top down.

*Frequency of changes to planning legislation/policy/guidance (and related legislation/policy/guidance)*

For very many years, the planning system has been bedevilled by the frequency of changes to legislation, policy (NPPF and ministerial statements) and guidance (PPG and similar). In particular, changes to the Planning Practice Guidance are introduced in a seemingly ad hoc manner often with no prior consultation or alert (and very often the notification system does not properly function) meaning the planning authorities are on the back foot in terms of being able to respond appropriately in progressing their Local Plans. The regularity and significance of these changes – no matter however well-intentioned they may be individually – is a major contributory factor to delays in Local Plan production, as LAs have to take account of them immediately (in almost all cases), causing the need to take time to reflect and (in some cases) the need to collect new evidence or information. In other cases,

the knowledge that significant changes/new legislation will be coming, but with no clear timescale from Government as to precisely when (and little knowledge of precisely what it will say, and whether there will be any transitional arrangements), can be very difficult to deal with and encourage delays in plan-making (as LAs do not want to do abortive and possibly expensive work).

Changes to Building Regulations (also under MHCLG) is another area where modifications may have implications for planning (changes caused by Grenfell disaster considerations, for example). On this point, there is scope for the Building Regulations to be the appropriate mechanism for certain matters that have become part of the planning system and which require time to evidence and to be considered through the Examination process, such as accessible and adaptable dwellings and space standards. Shifting such matters back to the Building Regulations will help to provide a consistent approach across the country and contribute to shortening the time taken to produce Local Plans.

Relevant legislative/policy/ guidance changes regularly emerges from other arms of Government too – for example, DEFRA (on flood risk, coastal erosion etc), DCMS (broadband and mobile telephony), DfT (transport, highways and airports), DfH (NHS, hospitals etc) and, of course, HM Treasury.

Whilst it is not realistic to expect no new relevant legislation, policy or guidance to come out for a period of years, it has to be understood that for LAs to be able to prepare Local Plans to a strict timetable, these changes must be kept to an absolute bare minimum and programmed into a publicly viewable timetable in order that local authorities and consultees / stakeholders know what to expect and when. Naturally there may be instances where guidance needs to be changed at short notice, however this should be the exception rather than the norm. What would be far preferable, however, and the only way in which a 30 month timetable could possibly be achieved, would be the ability to “freeze” the situation from the official start of the Plan preparation period, such that no new legislation, policy and guidance after this point would need to be taken into account. This would give the best chance of being able to hold to the timetable. If this does not happen, then LAs will be faced with an unappealing choice: i) delay plan-making to take account of the change(s) and risk potential MHCLG sanctions or ii) carrying on with the Local Plan and risk it being found unsound and/or subject to potential legal challenges.

#### *Planning Inspectorate resources*

Just as for many key consultees, the potential production of a large number of Local Plans in England to a very similar timeframe will put a huge strain on the Planning Inspectorate’s resources. PINS will need a major boost to resources to be able to have enough trained and experienced inspectors to manage the demand, alongside continuing to meet the challenging demands to service planning appeals.

#### *Local authority planning resources and skills*

The White Paper recognises that a boost to LA plan-making resources will be necessary – and this will need to be ring-fenced. What is also needed is resources to increase the design

skills of planners – whilst some have them, for many policy planners, design is not an area where they have particularly good knowledge and experience. With the focus on digital tools forming a key part in plan-making, it will also be essential for local authorities to be well resourced at the technical level, in terms of both skills and experience but also up-to-the-minute technology.

#### Stage 1 – “Calls for sites/areas” – 6 months

Whilst this seems on the face of it a lengthy period of time to undertake the “call”, in reality it is not. If the Council’s housing requirement (set through the national approach) is already known, this would be a useful starting point (although it is unclear what would happen if a new constraint emerged that restricted the delivery of those housing numbers). However, there are also other development types that need to be planned for – employment land, retail land, community facilities etc. Without an understanding of the level of these other “needs”, it will not be possible to properly understand the amount of land that will need to be allocated for these uses (and also *where* those allocations should/could be), nor engage properly with the public (and other stakeholders) on these vital matters.

It is possible to overlap the gathering of evidence on needs and the ‘call for sites’ process – the latter being broad enough that consideration can then be given to submissions in light of evidence of needs as this emerges. It is the analysis and bringing together of the two sets of information that requires proper consideration and time. However, in order to make the most of the ‘call for sites’ process it would be advantageous to have undertaken some assessment of needs, particularly with a new system which will be less familiar to landowners and developers.

This strongly implies that some of the evidence-gathering work would need to commence before the formal “start” of the process, and this needs to be recognised. This is particularly so when considering those proposing land for development (especially as landowner/developer) – the greater the amount of information that can be provided to support proposed allocations/designations, the easier the councils’ task will be to assess and consult on the details.

#### Stage 2 – Drawing up the Local Plan – 12 months

For some of the reasons detailed above, this period is also likely to be challenging to adhere to. Repeating some of the Council’s other comments in this White Paper response, there would need to be major streamlining of the evidence base requirements (and testing) and consideration of alternatives. However, even then, unexpected evidence may arise when more detailed site appraisal is being undertaken, the more so that some allocations will need a higher level of analysis and work to justify any outline planning permission grant (for those which that would be appropriate for).

An important element missing here is provision for consultation prior to submission. Notwithstanding the resource implications for the Planning Inspectorate of having to deal with representations which could have been addressed by the Council, the production of a

Local Plan is guided by political decisions and Councils should be given the opportunity to receive, consider and address, where appropriate, comments submitted on their draft Plan before it is Examined by the Planning Inspectorate. Public consultation on a draft Plan, if undertaken properly, is a positive part of the preparation of a Plan, where an authority can really engage with those who live in and work in the area and will be affected by the proposals. Often it is not until a proposal is set out in a draft Plan that the true views on that proposal are able to be fully understood and assessed, by the public, developers/landowners and also statutory consultees (such as Natural England).

### Stage 3 – Submission and consultation – 6 weeks

This stage ought to be easier to achieve (if it comes in as proposed). Related to the comments above, the most significant difficulty is likely to be publicising the plans for ‘best in class’ public involvement. At this stage, the Plan will have been submitted for examination, and as the Council will not be able to agree any further changes at that point, persuading people that their comments will be able to be taken into account appropriately will not be as easy at Stage 1. This is particularly important bearing in mind the proposed word limit for responses. The matter would probably be less of an issue if there was an earlier opportunity or public comment on the draft Local Plan before it was submitted.

### Stage 4 – Examination – 9 months

This timescale should be achievable, subject to the necessary Planning Inspectorate resources (administrative staff as well as qualified inspectors). The Council would support removing the automatic “right to be heard” (paragraph 2.53), as many representors simply re-iterate the same points they already made in their written representations to the Local Plan consultation and/or Inspector’s questions. However, this would not be without risk – allowing people to “have their say” at the Hearing arguably plays an important role in engendering public confidence in the transparency of the examination process.

The Council would strongly suggest that each Local Plan should be examined jointly by two inspectors. Whilst this would appear to add cost, in reality they could (as now, where there are two inspectors) divide up topics of the Plan between them but more importantly add robustness in case one Inspector falls ill or similar – a mercifully rare but far from unheard of situation.

Without a Main Modifications process, it is also unclear how the Inspector(s) could appropriately deal with sensible changes to the submitted Local Plan that he/she identifies through the examination process and engender public confidence – such changes might be significant (such as perhaps allocating an additional large site). Whilst this will have benefits in terms of time, this may compound any feelings of consultees of not properly being engaged in the process.

### Stage 5 – Adoption – 6 weeks

All councils seek to progress as rapidly as possible to adopt their Local Plan once a “sound” Inspector’s report has been received. One of the factors that can delay this, however, is the timing of Full Council meetings to formally agree the adoption – for most authorities, these

meetings only take place about every two months. Special meetings can sometimes be agreed, but not always (for a variety of reasons) and so some flexibility may be necessary here. It may be prudent to adjust the NPPF to say that on receipt of a “sound” Inspector’s report that very significant – virtually full – weight could be given to the Local Plan.

The Council would not support removing the Examination stage entirely (paragraph 2.54). There is too much danger that the view amongst some consultees would be that councils would be “marking their own homework” (on a controversial matter) and there would be an elevated risk of legal challenges as a result.

### Conclusion

Whilst the Council would welcome measures to reduce the time to prepare Local Plans and reduce the adversarial nature of their preparation and examination, a fixed (and univariable) timescale is too vulnerable to unexpected eventualities (such as new legislation/Government requirements), and it seems the main casualty of the fixed timetable is the reduced opportunity for public consultation.

A more sensible approach would be for a council to arrange a meeting with the Planning Inspectorate at the very start of the process, to highlight the main likely issues and the potential difficulties that could arise in dealing with these issues. A timetable for Plan preparation – with appropriate supportive Inspectorate resources – could then be agreed, with reasonable adjustments being made in agreement between the Council and the Inspector(s). This timetable could be published and kept up to date, with reasons given for any slippage, to ensure that both parties are accountable. Where there is some slippage, the Council could discuss with the Inspector potential ways of making up time (if this is practicable) later in the process, but some flexibility to timelines will be necessary, and LAs should not be ‘punished’ for events which may be outside their control and/or not foreseeable. Where changes to legislation or guidance are made, these should be accompanied with a reasonable ‘slippage allowance’ for Local Plans currently under preparation – enabling authorities to adjust their timetables without being ‘punished’ for this.

### **Proposal 9: Neighbourhood Plans should be retained as an important means of community input, and we will support communities to make better use 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.]*

Yes.

Neighbourhood plans give local communities a voice in the current planning system and many community groups have invested years of their time in developing them. Due to the extent of community engagement and the referendum, neighbourhood planning is the most democratic layer of planning. Neighbourhood plans should therefore be retained to meet the White Paper’s aim of giving communities an early and meaningful say. There are

concerns about neighbourhood plans being diluted as a result of a zoning system and heavy emphasis on design codes. A new planning system should provide attractive reasons for communities to develop their own plan.

Neighbourhood plans can be a valuable source of land allocated for housing (or growth) to help deliver the community's vision and therefore they should be taken forward to maintain this role. In delivering a community's vision it is important that the needs and aspirations are reflected in the detail of any site allocation (or growth area) and that a new system can capture 'how' a development will happen. Therefore neighbourhood plans should be able to influence the sub-areas within *Growth* and *Renewal* areas.

Many neighbourhood plans like to create 'development management' type policies which give them control over how development will take place, according to local circumstances. These might relate to change of use or infill development, for example, which might take place on small, individual sites which will be difficult to differentiate in a zoning system. It is therefore recommended that the proposal for 'development management' policies to be set at a national scale allows for neighbourhood plans to alter or adjust these policies at a local level where justified by evidence. Many neighbourhood plan policies are highly nuanced and accordingly communities should be able to retain a degree of control and discretion.

Some neighbourhood plans concentrate on design of new development and it is expected these would be happy to have input into a design code. However, this is not always appropriate or proportionate - for instance where a Parish is very rural and expecting to accommodate little growth. Those groups that develop a design guide for their area should be provided with appropriate technical support (similar to what can be accessed now in certain circumstances), but groups should also be allowed to plan beyond a design code and a zoning system (see also paragraph above). If outline planning permission is given via a *Growth* area then a neighbourhood plan should be able to influence the reserved matters. A design guide would be a good way of doing this, but communities should be able to have a say on matters beyond design. Either by incorporating 'Development Management' style matters into a design guide or allowing neighbourhood plans to influence nationalised Development Management policies.

The White Paper says very little about how neighbourhood plans might work in a new planning system but it will be extremely important to be very clear with communities how their neighbourhood plan will relate to both national and local policy.

Neighbourhood planning support takes up considerable resource from a Local Planning Authority. Community groups will require significant support in the transition to a new planning system and this additional demand on Local Planning Authority resources should be an important consideration.

*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?*

The use of digital tools is supported, but communities will need support to be able to deliver on this. Some neighbourhood planning groups have very little ability and experience in technical skills. As a Local Planning Authorities we already provide some support in this domain but we have limited resources to do so. For the groups that do possess good technical skills, licences could be granted to allow them to use certain software packages. Another alternative is to provide support via consultants, but to provide satisfactory support this should deliver continuous support for neighbourhood planning groups rather than relying on short-term assistance.

Potentially a template and a platform for online content could be provided. This would assist with standardisation of both local and neighbourhood plans and reduce (to a degree) the amount of work communities would have to do themselves.

## **SPEEDING UP THE DELIVERY OF DEVELOPMENT**

### **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.]*

Yes.

A significant problem is that even when local authorities grant planning permission for housing 'there is a large gap between permissions granted and new homes built. This was acknowledged in the MHCLG's Fixing our broken housing market (2017) (page 13) which found that more than a third of new homes that were granted planning permission between 2010/11 and 2015/16 had not yet been built in 2017.'

It is generally acknowledged that small and medium greenfield sites have faster build out rates than large sites. However, small and medium sites alone are unable to deliver the quantity of houses required. Small and medium site are also unable to accommodate onsite infrastructure, such as new schools, sports facilities, community facilities and open space, which are need to support increased housing numbers.

Large sites are currently dominated by major, volume housebuilders. Research by Sir Oliver Letwin's Independent Review of Build Out: Final Report (2018) into large sites of over 1,000 units found the median build out period is 15.5 years at a rate of 6.5% of the site a year. There is also a negative relationship between the size of site and percentage built out each year. The Letwin report's review of large sites found the 'homogeneity of the types and tenures of the homes on offer on these sites, and the limits on the rate at which the market will absorb such homogenous products, are the fundamental drivers of the slow rate of build out.'

Sir Oliver Letwin's Independent Review of Build Out: Final Report (2018) recommends in the long term new planning rules and the establishment of a National Expert Committee. The

report recommends, in the short term, incentives to diversity large sites that are located in areas of high demand, and securing improvements through Section 106 agreements. Recommendations for local planning authorities with high housing demand include the power to create master plans and design codes to promote diversity and good design, and statutory powers to create/allocate, purchase and control the development of large sites through a Local Development Company.

Any increased emphasis on the build out rates of developments would need to be accompanied by new primary legislation that gives local authorities the power to affect development. East Suffolk Council would welcome new statutory powers to create master plans and design codes to promote diversity and good design on larger sites and to create/allocate, purchase and control the development of medium and large sites.

## **Pillar Two – Planning for beautiful and sustainable places**

*15. What do you think about the design of new development that has happened recently in your area? [Not sure or indifferent / Beautiful and/or well-designed / Ugly and/or poorly-designed / There hasn't been any / Other – please specify]*

Other.

This answer is impossible to define against the limited options provided. There will always be examples of good and bad design and the standard remains in the eye of the beholder. As a Council we strive for good design and beauty and recent decision making has been strong in this respect, in particular with appeal decisions addressing poor design. Some examples of poorer quality design in recent years have provided an opportunity for reflection and to understand where opportunities were missed. We do celebrate good design and we have an annual Quality of Place Awards recognising the best of Design in East Suffolk from a variety of developments of varying scale and form. These are the developments which we should benchmark against and we do.

We have been able to secure high quality design on many developments thanks to the time and investment we have made into a strong internal design team. Good design requires experienced officers to lead on design and ongoing training and development of all officers.

We also believe that the terminology of 'beauty' in respect of the design of development is misleading. It implies that it is about beautiful buildings and spaces but much of what makes good design is not about aesthetics but also about functions and performance. Beautiful also leans more towards a traditional/vernacular style of design but in delivering new developments fit for the 21<sup>st</sup> century and beyond, we should be designing in contemporary ways. This does not always come across as 'beautiful' but that does not mean it is not high quality or outstanding design.

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

Other.

As per the last question, this is so difficult for a LPA to define as one single priority. We have spent the past 8 years working to the NPPF definition of sustainable development having three intertwined and essential elements, environment, economy and social. This question seeks a view on sustainability predominantly in environmental terms, which is clearly a priority for all LPAs, however the answer required is much further reaching. The social and economic considerations of sustainability are also incredibly high on the agenda of many communities currently and the best environmental outcomes rely on those other considerations. We need to create healthy, green, viable and socially interactive developments and communities and this will need a broader vision to achieve the most sustainable outcomes.

It also needs to be realised that planning is just one influence on achieving sustainability. It is an important and early one but there are limitations that it has. Currently we need to establish better interaction between planning and building regulations to inform how energy efficient buildings are planned and the financing of development needs to be reviewed in how to best value economic, environmental, and social outputs.

Whilst delivery of new greenspace is an important part of delivering sustainable development, the location and quality of the space delivered and its long term management are equally (if not more) important. The assumption that the delivery of a greater amount of space is automatically best can be misleading when in some instances smaller, better designed, located and maintained sites might be more appropriate in the long term.

## **CREATING FRAMEWORKS FOR QUALITY**

**Proposal 11: To make design expectations more visual and predictable, we will expect design guidance and codes to be prepared locally with community involvement, and ensure that codes are more binding on decisions about development.**

*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.]*

Not sure.

However, the thrust and aspiration is highly commendable but in practice this approach requires a substantial re-evaluation of how this process could be resourced and presently the White Paper does not provide confidence that this is being prioritised amongst the radical ideas. East Suffolk are not averse to Design Codes and their role in changing the stages of design in our District. However, rigidly describing this approach as being one of Design 'Codes' may not be appropriate. In East Suffolk we are already working in this way,

not through codes but through Development Briefs. We have recently consulted on a template brief for use on our allocated sites. The purpose of these will be to enable earlier and more joined up consideration of allocation and other policy affecting a site and also to provide a much clearer understanding of the opportunities and constraints of sites which will inform our principles for its design. We are primarily aiming the use of these briefs at sites which are not yet coming forward, allowing future applicants and developers to be well informed through a proactive LPA led approach to design. These will be adopted by the Council as a Supplementary Planning Document.

This approach would not work where a developer is already seeking to bring a site forward and when they have already developed designs before approaching the Council. In our experience such proposals at first appear immutable so greater national policy weight to enable codes/guides/briefs to be developed first would be welcomed, therefore requiring this necessary opportunity for good design to be reached collaboratively. Unfortunately, at present, our Development Brief approach may be seen as a barrier or additional process to go through rather than the design enabler it is intended to be.

Ultimately the biggest question for an increased national focus on Design codes/guides is a matter of resourcing and time. Just because Design Codes could be used alongside Local Plans (allowing a streamlined application process) it does not mean a faster consenting journey. It is just a shifting of design considerations in the timeline of a site. The earlier stages of that timeline will become incredibly resource hungry. For Councils like ourselves, who have recently adopted two Local Plans in two years, the need to develop Design Codes at the same time or shortly after, whilst also proactively working to deliver homes would be impossible. Therefore, major investment in the resourcing of planning departments and the training and education of planning graduates with greater design skills is required. A focus would be required on how so many LPAs could produce so much design guidance and coding without having to rely upon external consultancies who would not provide such a convincing local grasp of what would be required for our local context and communities. It may be possible to pool resources across LPAs with dedicated design teams but it is also important not to segregate design work as being something for the specialists, all planners need to be enabled to have confidence in design decision making and negotiation.

If design codes are to be binding as part of local plans, LPAs will need to undertake a significant amount of detailed design work at the plan making stage. This may not be possible within the proposed statutory 30 month plan making timeframe, particularly if such codes are to be supported by 'best in class' public engagement.

With an overemphasis on design codes and guides there is also the possibility of creating a rigid design process and one which breeds selective, conservative and uniform outcomes. Some sites require a strong individual vision and freedom to be designed without prescribed codes. There is a risk that rigid design coding could stymie high quality contemporary design or more sustainable designs.

In addition, the focus on beauty restricts design quality to simply that which can be seen, thereby relegating the importance of function and performance. Compounding this is the

added emphasis on ‘what is provably popular’, which has the potential to restrict architectural innovation. There are plenty of examples of poor quality pastiche developments, and maybe these pastiche developments pass the beauty and provably popular test. Clearly however, this is not what we should be striving for. We want beauty, but we don’t want poor quality ‘beauty’. Focussing narrowly on beauty creates a perception that what matters is what a development looks like. We should instead focus on design quality.

It is important to recognise that innovative architecture is not always popular at first, but can become incredibly popular over time. Some of our most treasured buildings and spaces were when built very unpopular. Do people want to live in a world where what exists must be repeated or would they prefer to live in a world where innovation that respects its context is encouraged?

Consideration needs to be given to Neighbourhood Plans which produce their own design guide/code(s) and how these may interact with Local Design guides and codes for a whole district or wider area. Should the neighbourhood versions take prominence and supersede others or as with policy, would a Neighbourhood Plan version be required to conform with the District version?

**Proposal 12: To support the transition to a planning system which is more visual and rooted in local preferences and character, we will set up a body to support the delivery of provably locally-popular design codes, and propose that each authority should 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.]

Yes.

This sounds similar to the Commission for Architecture and Built Environment (CABE) which when lost was a significant step backwards for design and planning. It is to be applauded that the Government is now recognising the value of good design and following through with some significant recent actions. An overseeing body is essential to join all of this together and avoid a piecemeal approach. While we are of course in favour of gaining the support of local communities through expansive and effective community engagement, the quality of design codes should not rest on whether they are ‘provably locally-popular’. This has potential to restrict innovative design solutions. It is possible that a high quality design code may be unpopular and indeed that a low quality design code may be popular. We would therefore encourage greater emphasis to be placed on the quality of design codes rather than their popularity.

Yes to each authority having a chief design officer. It is not clear whether this is a standalone role which may sit alongside the Chief Planner or underneath the Chief Planner. The latter appears to be more obvious and it would be one way of giving elevated importance to existing roles of design officers and urban design officers.

**Proposal 13: To further embed national leadership on delivering better places, we will consider how Homes England's strategic objectives can 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.]*

Yes.

At present this would only appear to be of relevance to sites with Homes England investment. It is certainly right that any site involving Homes England should be expected to achieve a very high standard of design to justify the public funding. For sites where Homes England do not have involvement it would be beneficial to see how better design standards could be used as an incentive to achieve Homes England funding after the planning process.

## **A FAST-TRACK FOR BEAUTY**

**Proposal 14: We intend to introduce a fast-track for beauty through changes to national policy and legislation, to incentivise and accelerate high quality development which reflects local character and preferences.**

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

Not sure.

We cannot stress enough that beauty/good design and fast-tracking do not sit comfortably with each other. Good design takes time and whilst a consenting process may be faster the actual process to establish what beauty/good design is, to guide or code that and apply it is a considerably long process. The unintended consequence of this approach, particularly without substantial resourcing Local Authorities, may in fact delay delivery and place greater risk of unplanned, poorly designed schemes coming forward.

In respect of updating the NPPF. There is clearly an advantage to having additional policy weight through the NPPF on the importance of compliance to design guides/codes. However considerable care does need to be taken that a form of tilted balance is given to such compliance and that compliances in respect of design does only form one part of considerations, particularly on larger schemes. It would be better to use the NPPF to remove any design uncertainty or disagreement where compliance with a guide/code is achieved.

Obviously in many cases such compliance remains subjective anyway and it would also be reinforced for development plan policy.

In respect of proposals for Growth Areas and the plan requirement for a masterplan/site specific code as part of the permission in principle allocation – these don't particularly change the existing situation with our current up-to-date local plans. All of our strategic sites have a masterplanning requirement as part of the policy. As per our answer to question 17, this does not reduce the requirements placed on developers or reduce the time taken to achieve a full permission, it just partly shifts timeframes. The consequence of establishing a permission in principle in advance of a masterplan could be quite significant, particularly where parallel masterplanning is necessary to inform some critical matters of principal such as the mitigation requirements and on site infrastructure expectations which may be a fundamental part of the masterplan design.

On the third point – the suggestions of permitted development through the use of pattern books is not clearly described. If this may involve new build development through pattern book standard house types, then it is not clear how such patterns will address necessary considerations outside of that building pattern. Who would sign off the approved pattern book – a nationally agreed approach or would it be down to a local level. This proposal appears to be framed around modular construction (MMC) as it is logical that this approach to housing delivery will only produce a limited range of house types. In principle there may be locations where this would be an appropriate approach but we disagree that this should be done through permitted development rights and that it could apply to all Renewal Areas.

## **EFFECTIVE STEWARDSHIP AND ENHANCEMENT OF OUR NATURAL AND HISTORIC ENVIRONMENT**

**Proposal 15: We intend to amend the National Planning Policy Framework to ensure that it targets those areas where a reformed planning system can most effectively play a role in mitigating and adapting to climate change and maximising environmental benefits.**

*No question, but some comments below:*

Considerations to mitigate and adapt to climate change, sustainable design, sustainable construction, and environmental issues need to be interwoven into all planning policies and not solely be standalone policies. The environmental benefits are best realised when the issues are considered at the beginning of the design process. Maximising environmental benefits should therefore be given equal consideration and importance as the creation of beautiful buildings. Planning reforms should consider:

- The orientation of buildings to maximise daylight and passive solar gain;
- Integrated renewable energy solutions (e.g. solar panels incorporated into the design and orientation of buildings rather than stuck onto walls and roofs as later addition);

- The inclusion of sustainable drainage systems including attenuation ponds, drainage ditches, reed beds, and planting. The design of sustainable drainage systems and the associated landscaping issues should be addressed through the planning system and be explicitly supported in any new planning reforms;
- Access to the countryside, green spaces, and footpath and cycle paths;
- Access to public transport; and
- Access to service and facilities (shops, schools, doctors etc)

The sourcing and production of building materials, the transportation of building materials and the construction of buildings is an energy intensive process. Any future planning reforms should explicitly require developers to build buildings that are of sufficient quality that they will last a substantial length of time. Poor quality buildings risk becoming the slums of the future that will need to be demolished and rebuilt or retrofitted, at great financial expense and impact to the environment.

To ensure buildings last a significant length of time they should have minimum internal space standards, minimum external space standards (both for private and shared gardens), external windows to provide minimum requirements for natural light and ventilation, be designed to adapt to meet changing needs, particularly of an aging population, and be designed to meet changes in work patterns. (e.g. new homes should have staircases that are suitable for installing stairlifts. Ground floor and first floor cupboards can be located above each other and be designed to accommodate a future lift shaft. Doorways can be installed wide enough to accommodate wheelchairs. Downstairs WCs should be made large enough to accommodate those with mobility problems and a carer providing assistance. Plumbing can be laid to assist in the future conversion of ground floor rooms to en suite bedrooms to help the disabled or elderly. Hallways and landings should be wide enough for wheelchairs. Space to incorporate home offices to reduce the need for travel (obviously particularly relevant now, but this may well become a more permanent shift in working patterns). Provision for electric vehicle charging points for developments with on-site parking spaces could be required through Building Regulations.

All new standards should be applied to new buildings and the conversion of existing buildings regardless of whether development receives consent through planning application or permitted development.

The recently announced changes to require new homes being created through the exercise of permitted development rights (especially from former offices) to have “adequate” natural light and meet with national minimum space standards are welcome (if well overdue). However, some will still have poor ventilation and a poor outlook and many conversions are located on industrial or business estates with no easy access to public transport, shops, schools, doctors, green space and foot/cycle paths. Unless homes created through permitted development are subject to the same standards as those permitted through planning applications, a tiered system will continue to exist. All buildings should be

well designed and contribute towards mitigating and adapting to climate change and maximising environmental benefits.

Any changes to the NPPF in relation to this need to support the delivery of the Local Nature Recovery Strategies which will be required as part of the Environment Act.

**Proposal 16: We intend to design a quicker, simpler framework for assessing environmental impacts and enhancement opportunities, that speeds up the process while protecting and enhancing the most valuable and important habitats and species in England.**

*No question posed, but some comments below:*

Speeding up the environmental assessment process and decision making process should not be at the expense of good quality assessment. Survey requirements for many habitats and species are seasonal and in many cases it is important to understand the seasonal use of areas by species to fully understand the impact of new development. Whilst better understanding of environmental assessment requirements upfront may help speed up development assessment in some cases, seasonal constraints cannot be ignored. It is also unclear how this will match with existing legislation which protects sites and species, whilst a quicker assessment process may be desirable this must accord with existing legal requirements.

Any consolidation of requirements should also not result in the loss of subtlety between the different types of environmental assessment (e.g. the differences between SEA, SA, EIA and HRA). Many of these assessments are highly technical and there is a risk that oversimplification will result in a loss of quality and ultimately adverse environmental impacts. Furthermore, the requirements of many of these assessments are seasonal in order to fully understand the impact of new development on habitats and species. Any streamlined system will need to recognise and accommodate these seasonal constraints.

Any alternative assessment system will also need to address the requirements of other existing legislation which protects sites and species. This should include all existing environmental protections including local designations such as locally designated wildlife sites which only receive protection through the planning system. It is essential that any new system ensures that these sites receive adequate protection from development impacts.

**Proposal 17: Conserving and enhancing our historic buildings and areas in the 21st century**

*No question posed but this is to be supported.*

**Proposal 18: To complement our planning reforms, we will facilitate ambitious improvements in the energy efficiency standards for buildings to help deliver our world-leading commitment to net-zero by 2050.**

*No question, but some comments below:*

Energy efficiency should not just be about the amount of energy it takes to run a building. It should encompass types of construction, levels of insulation, methods of heating and cooling, the type and source of materials etc.

Energy efficiency standards need to be addressed through Building Regulations to prevent them being subject to financial viability testing, that would result in varying standards within a local authority area. If energy efficiency were subject to viability testing it is likely that the poorest areas would suffer the most and see buildings constructed to lower standards.

Energy efficiency, the quality of building construction and the subsequent cost of running a building (energy/utility bills) should not vary across the country as everyone should have access to homes built to the same high standard. This is critical in ensuring that housing contributes to the Government's commitment to the country being carbon neutral by 2050.

Energy efficiency standards, particularly in terms of insulation levels, ventilation standards and heating systems, need to be addressed through Building Regulations, not reforms to the planning system, to ensure they are a national standard and not potentially varying across local authority areas.

Unlike most planning officers, Building Control officers have the training and expertise to assess applications that include energy efficiency information and to monitor, during on-site construction visits, the implementation of new energy efficiency standards.

The planning system should support the use of materials with lower embodied energy and challenge the use of traditional materials such as brick-and-block walls and concrete floors. This would require the embodied energy of materials to be considered and given weight in planning decisions alongside the aesthetic appearance of materials, the matching to existing materials used in the area and the impact of materials on the character of an area.

In addition to creating beautiful buildings, the energy efficiency of the design of a building should be given weight in planning decisions. There needs to be greater acceptance of non-traditional designs which are highly energy-efficient or designed to meet current needs and adapt to future needs. There needs to be greater consideration of how size, scale, and portions of modern designed buildings can be used to enable them to respond to local context and existing traditional buildings.

The planning system should require integrated renewable energy solutions (e.g. solar panels incorporated into the design and orientation of buildings rather than stuck onto the roof years later).

It is noted that the White Paper does not mention water conservation, improved water efficiency within buildings, or sustainable drainage systems. Water as well as energy should be addressed in light of climate change issues. Improved water efficiency within buildings should be addressed by Building Regulations.

## **Pillar Three – Planning for infrastructure and connected places**

*22. When new development happens in your area, what is your priority for what comes with it? [More affordable housing / More or better infrastructure (such as transport, schools, health provision) / Design of new buildings / More shops and/or employment space / Green space / Don't know / Other – please specify]*

Other.

All (as appropriate and relevant to the scale of development) are necessary or desirable and cannot (and should not) be prioritised over each other in a general sense, particularly on a district-wide basis.

## **A CONSOLIDATED INFRASTRUCTURE LEVY**

**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 or rates and the current system of planning obligations abolished.**

*23(a). Should the Government replace the Community Infrastructure Levy and Section 106 planning obligations with a new consolidated Infrastructure Levy, which is charged as a fixed proportion of development value above a set threshold? [Yes / No / Not sure. Please provide supporting statement.]*

Not sure.

The approach of having a single Infrastructure Levy appears, at first blush, attractive, simplifying a complicated system of local CIL Charging Schedules (where in existence) and S106 planning obligations. However, adding in affordable housing would add considerable complexity and difficulties (discussed in response to Q25 below). The proposed introduction of a single rate for the Infrastructure Levy is also problematic (discussed in response to Question 23b).

In addition, S106 legal agreements are also a mechanism for securing the details of e.g. the timing and phasing for the delivery of certain land and/or infrastructure. In addition, some districts secure payments for Habitats Regulations monitoring and mitigation using the powers under S106 of the 1990 Act. There would still need to be some kind of legal mechanism to enable these important details to be agreed between the LPA and the applicant/developer.

*23(b). Should the Infrastructure Levy rates be set nationally at a single rate, set nationally at an area-specific rate, or set locally? [Nationally at a single rate / Nationally at an area-specific rate / Locally]*

Locally.

A single rate would not work well, either nationally or (in many cases) at a local level.

At a national level, there are enormous differences in the value of land – contrast, say, Westminster and Kensington (in London) with parts of Blackpool and Teesside. The suggested approach of having a value-based minimum threshold below which the levy would not be charged would affect many lower-value council areas, especially away from parts of London and the South East. Quite a few sites in these areas – especially brownfield sites – are not viable now. Unless the levy was set at a very low rate (which is not the aim of the White Paper proposals), very large areas of land could potentially fall below the threshold, and make little or contribution to infrastructure and/or affordable housing.

The White Paper is silent on how lower-value/viability areas would be able to make up the difference in ‘lost’ infrastructure and affordable housing funding. One option could potentially be a national system of re-distributing some funding from higher-value areas, but this would be enormously unpopular in those areas and also potentially unfair to them (if the full amount of their Levy income would be needed to deliver infrastructure). In any case, even higher-value areas can struggle to afford (in a timely way) to deliver necessary infrastructure. Another option could be direct Government funding. Not dealing with this issue would not be acceptable; otherwise, lower-value areas could see even less money to deliver needed infrastructure and affordable housing.

At a local level, there can be big differences in values even within a single district. For example, in East Suffolk, Southwold is a town with very high land and property prices; it is in the highest CIL charging zone (£224 per m<sup>2</sup>) for Waveney (one of the two districts that merged to form East Suffolk district in 2019). Yet Lowestoft, only about 14 miles away, has much lower land values – indeed, parts of central Lowestoft area have such poor viability that it is zero-rated for CIL; other parts of inner Lowestoft have a rate of only £67 per m<sup>2</sup> and the rest of Lowestoft has a rate of £89 per m<sup>2</sup>.

A nationally-set area rate would need to understand the unintended consequences if set too high/low and would need to have early review to understand impacts. Consistent approaches would need to be adopted for example how much of a “buffer” should be allowed (for changing circumstances). Even a single local levy rate could therefore be problematic; not securing as much as achievable under the current CIL system from high-value area, whilst reducing (perhaps to zero) the amount of levy (and affordable housing) which could be raised from some lower-value areas.

The only sensible solution – if indeed the Infrastructure Levy was to be brought in – would be to allow rates to be set locally, with different rates within the district (as appropriate),

unless the Government would be prepared to recharge income potentially “lost” in having a rate (or rates) that was/were not locally-specific and appropriate.

*23(c). Should the Infrastructure Levy aim to capture the same amount of value overall, or more value, to support greater investment in infrastructure, affordable housing and local communities? [Same amount overall / More value / Less value / Not sure. Please provide supporting statement.]*

More value.

For too long there has been a funding gap for infrastructure and the importance of local green spaces, community buildings, good road/rail infrastructure, footpaths and cycle routes, public transport links, etc cannot be underestimated in their value in building “place”. If good infrastructure is not available in the vicinity, people travel or move to where it is. The right approach is to make areas attractive and properly supported with the right infrastructure.

The ability to capture some of the value increase that can accrue from the exercise of permitted development rights (Question 24) would also help in this aim.

In order to better achieve this, however, the taxation of land, development and companies would need to be re-considered, as extra levy (looked at overall at the national level) could reduce profit levels, and potentially hinder/delay certain land coming forward. What could be gained in levy payments could potentially be lost (through reduced company/sole trader taxation payments) to the wider public purse.

Tax avoidance measures (including for the Infrastructure Levy) would also need to be put in place to avoid “gaming” of the system. The potential sanction for non-payment at the point of occupation (paragraph 4.9) would clearly be necessary, but so would measures to prevent development companies (which are often set up specifically for individual developments) being artificially put into administration/wound up just before the Levy payment threshold is reached, and a ‘phoenix’ company then rising from the ashes to complete the development, but potentially shorn of its Levy liabilities. Parental company guarantees and/or bonds may be necessary to provide Local Authorities with the confidence that, if the development company went into liquidation before completing the properties, the local taxpayer would not be left to pick up the cost of ‘lost’ Levy income.

*23(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, but with caveats.

Some authorities already have the ability to borrow against future CIL income, so this would not be a novel arrangement. However, to reduce the risk this should only be where the level

of development has (or will shortly) commence(d) that requires the need for significant infrastructure to be delivered on the same trajectory as the new housing or where this would provide new infrastructure in a better location, thereby facilitating and freeing up a site for development for affordable housing. The argument that forward-funding of infrastructure by LAs will help speed up the delivery of development has some attraction, but due to widely varying circumstances (viability, how critical certain pieces of infrastructure are, who controls the development land etc) this will not always work as intended. In particular, if the local housing market is not strong, housebuilders are most unlikely to build on spec, even if some infrastructure has been forward-delivered – they will build only at a rate they are confident they can sell.

As mentioned in the answer to Question 23 (d) above, there is also a risk that some sites may stop part way through delivery and it would be important to ensure consistent and full delivery of a site and thus payment of the Levy.

Paragraph 4.13 says (rightly) that local authorities should assure themselves that any borrowing is affordable and suitable. It would be necessary to ensure that there are appropriate safeguards in place to prevent ‘gaming’ of the system by some developers (see also the answer to Q 23 c) above). In addition, however, the forward-funding of infrastructure can (obviously) be extremely expensive (easily tens or hundreds of millions for larger council areas with large developments). LAs have suffered a significant financial ‘hit’ from the Covid-19 crisis, and with a lack of long-term certainty about matters like LA funding and 100% Business Rates retention (and re-valuation), and it is very likely that many councils will be extremely cautious about borrowing significant further sums. Any such borrowing should be from the Public Works Loan Board, at the lowest possible rate.

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

*24. 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.

This is sensible, and would help to raise additional income, but at the moment ‘existing use’ credits would prevent any Levy being raised, so this would need to be changed.

Whilst the Council is supportive of self-build and custom-build developments, once again it is important to state that the CIL (and proposed Levy) exemption results in a significant loss of income for councils across England. The builders/occupiers of self-build and custom-build homes generate the same infrastructure broad requirements as those in ‘standard’ homes (education, highways, open space, sports facilities, street lighting etc). As an example, East Suffolk Council (and the parish councils which are entitled to 15% or 25% share of CIL) has ‘lost’ a total of £932,000 in the six months from 1 April (from 56 self-build claims), compared to an CIL income of about £3.3m during that period. The Council would therefore urge that

self-build should be subject to a level of CIL, even if the application of the full residential rate was thought to be inappropriate (despite the fact that paragraph 4.19 says that the exemption will be maintained).

The administrative burden of self-build exemption should also be re-assessed as there is a lot of work involved in monitoring the compliance with this part of the CIL Regulations, but with no financial income to councils.

**Proposal 21: The reformed Infrastructure Levy should deliver affordable housing provision**

*25(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.]*

No.

Affordable housing provision has generally been negotiated downwards and there is evidence that supports the need for more provision. The flexibility of the suggested changes would allow affordable housing to be provided in areas where there are existing needs to be met, but where authorities have been unable to allocate s106 to deliver in these areas due to the restrictions within s106 agreements.

*25(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.]*

Yes, with some flexibility.

Affordable homes, especially affordable rental products should be integrated with wider market housing schemes to promote inclusion and cohesion (as required by paragraph 62 of the NPPF). Affordable homes being built elsewhere as standalone sites could, without particular care being taken to avoid this, create 'ghettos' with fewer social amenities like play and green space, partly due to the size and location of the schemes. This could be a problem under the Equalities Act 2010 as the homes are more likely to house people from disabled, ethnic minority and single parent families.

However, in some cases (especially for some smaller sites) it may not be appropriate to secure in-kind payments, and so it is important that there is flexibility for councils to reject a developers' offer. As an example, a council might prefer to take the Levy income instead (to help deliver affordable housing elsewhere), if appropriate for a particular scheme.

*25(c). If an in-kind delivery approach is taken, should we mitigate against local authority overpayment risk? [Yes / No / Not sure. Please provide supporting statement.]*

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

*25(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.

In-kind delivery should ensure that affordable homes, especially rental products, are delivered with good space standards, a mix of property types and well-integrated across the development. Design codes should assist to meet high energy efficiency together with green technologies to help mitigate and adapt to climate change.

Build costs should be agreed through a transparent approach to enable LAs to have confidence in developers’ figures.

LAs have access to housing need data and have a better knowledge of the housing and infrastructure needs of their community. As democratically, elected representatives of the community, the LA should be enabled to direct and guide the delivery of affordable housing, including the size, type and number of homes together with their location. Specific policies at national level such ensure that affordable homes, especially rental products are delivered in small clusters of no more than 10 homes and well-integrated throughout the scheme. This will promote social cohesion and households will benefit from the same amenities as households in market housing.

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

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

Yes.

It is important that the infrastructure ‘needs’ identified in the Local Plan and the infrastructure priorities of the Neighbourhood Plans are delivered as a priority. There is not enough CIL to deliver all of the infrastructure required and it is difficult identifying and attracting other funding sources. As the delivery of services evolves utilising technology, more funding may need to be provided for technological improvement or even for practitioners to deliver services via an electronic/internet platform – this is veering into more “revenue” type expenditure and doesn’t meet the traditional definitions of infrastructure as its not buildings or extensions to buildings. Another example here is police or other emergency services vehicles – these are not “infrastructure” in the traditional

sense, but the need to consider safety and security where this is seen as being increased through new development in an area, may occur.

Ability and capacity to deliver community level infrastructure varies from parish to parish. It is noted that there is an absence of consultation questions about the Neighbourhood CIL portion of CIL.

That being said, the Council would have concerns about the potential ability of LAs to spend Levy funding on non-infrastructure funding, such as improving services or reducing council tax. Firstly, it is considered very unlikely that many authorities would be in such a position – infrastructure costs as considerable, constant and rising. However, if there was such a scenario, it could seem extremely unfair that some authorities were able – by virtue of very high land prices – to spend money on non-infrastructure items, whilst other authorities – in lower value areas – were not able to raise even close to their infrastructure requirements from the new Levy.

*26(a). If yes, should an affordable housing ‘ring-fence’ be developed? [Yes / No / Not sure. Please provide supporting statement.]*

Yes.

This would create certainty on funds available to deliver affordable housing, but if quality and quantity could be assured through on-site provision this would be a preferred route.

**Proposal 23: As we develop our final proposals for this new planning system, we will develop a comprehensive resources and skills strategy for the planning sector to support the implementation of our reforms.**

*No question posed but this is to be supported.*

**Proposal 24: We will seek to strengthen enforcement powers and sanctions**

*No question posed but this is to be supported.*

*Question 27. Do you have any views on the potential impact of the proposals raised in this consultation on people with protected characteristics as defined in section 149 of the Equality Act 2010?*

Yes.

Housing meets the need for shelter and warmth of all people regardless of lifestyle, health or status. The potential separation of affordable housing from new development would

disproportionately disadvantage disabled people, low income families with children, households with poor or life limiting health issues and families headed by a single parent. In addition, households from ethnic minorities are over-represented in low incomes and cohorts with low skills and/or qualifications. New developments, with a strong emphasis on beauty, quality and amenities, need to be available for households needing affordable rented homes if the policy separates out the two tenures. This will not meet the Government's ambition to 'level up' communities.