

## Introduction

This response is submitted on behalf of the Thames Gateway Kent Partnership (TGKP).

TGKP's boundary covers the Kent boroughs of Dartford, Gravesham, Maidstone, and Swale, plus Medway Unitary Authority. Each of TGKP's public sector partners (which also include Kent County Council) are responding directly to this consultation, and this response complements those. Maidstone BC opted not to participate in the Partnership's response, but rather have submitted their own separately.

For the most part, the comments in this response are grouped by proposal rather than by individual question. Proposals and questions are shown in shaded boxes, our responses in unshaded text.

29<sup>th</sup> October 2020

### Thames Gateway Kent Partnership

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**The Thames Gateway Kent Partnership is a public-private partnership, established since 2001, promoting sustainable economic-led growth and regeneration in North Kent.**

The top priorities in our *Plan for Growth 2014-20* are:

- Delivering growth in key locations
- Attracting and retaining investment
- Focusing on quality
- Supporting businesses – growth key industry sectors
- Supporting businesses – increasing innovation, enterprise, and creativity
- Improving skills, qualifications, and employability

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## Pillar One – Planning for development

### Overview

### Questions

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

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

*[Yes / No]*

2(a). If no, why not?

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

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

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

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

*[Building homes for young people / building homes for the homeless / Protection of green spaces / The environment, biodiversity and action on climate change / Increasing the affordability of housing / The design of new homes and places / Supporting the high street / Supporting the local economy / More or better local infrastructure / Protection of existing heritage buildings or areas / Other – please specify]*

Planning is essentially about setting a framework for the kind of future places people want to see, and striking a balance between different considerations to achieve delivery of that future in the short, medium, and long term. Planning needs to happen at multiple levels, from national down to local neighbourhoods, and it needs to address all four pillars of sustainable development – social, environmental, economic, and cultural – serving strategic goals and fulfilling local aspirations.

A White Paper setting out fundamental reforms of the planning system should be expected to take a comprehensive approach. But this White Paper takes a distorted approach. A selective word-search on the 25,000-word document confirms this impression (numbers indicate how often the term appears):

Housing = 84

Jobs = 4

Homes = 69

Employment = 2

Design = 64

Economy = 3

Community(ies) = 80

Commercial / Industrial = 3

Developer(s) = 62

Cultural = 2

Places = 52

Facilities/amenities = 8

Infrastructure = 49

Business/businesses = 10

Environment(al) = 40

Transport = 5

Utility/utilities = 0

Such a crude analysis can itself misrepresent the thrust of the document. But it indicates a lop-sided view of the planning system as being chiefly about delivering new housing, with a particular emphasis on the Government's ambitions for increased home ownership. But where will people earn the incomes to pay mortgages unless they have jobs? Where will businesses operate unless there is a suitable mix of commercial and industrial premises? What sort of places will be created unless they are well-served by local amenities? And how will places function coherently unless they are well connected with an integrated approach to transport and spatial planning?

Unless the planning system – and national policy framing it – gives due emphasis to planning positively for economic activity and employment, it is not going to be fit for purpose. Addressing the shortfall in housing supply nationally is undeniably important as is a strong emphasis on valuing the environment. But the rather reductive approach set out in the White Paper risks creating unbalanced, unsustainable, unproductive, and unhappy places.

These things said, there are many proposals to welcome in this document, in particular its emphasis on raising quality of development. Quality improvement is not usually achieved, however, through de-regulation. What is needed is re-regulation: systems that are fit for purpose now and looking to the future; systems that provide opportunities for investors and entrepreneurs; and systems that help build and enhance social, environmental, economic and cultural capital.

## Proposals

**We propose a new role for Local Plans and a new process for making them, by replacing the existing primary and secondary legislation.**

### A NEW APPROACH TO PLAN-MAKING

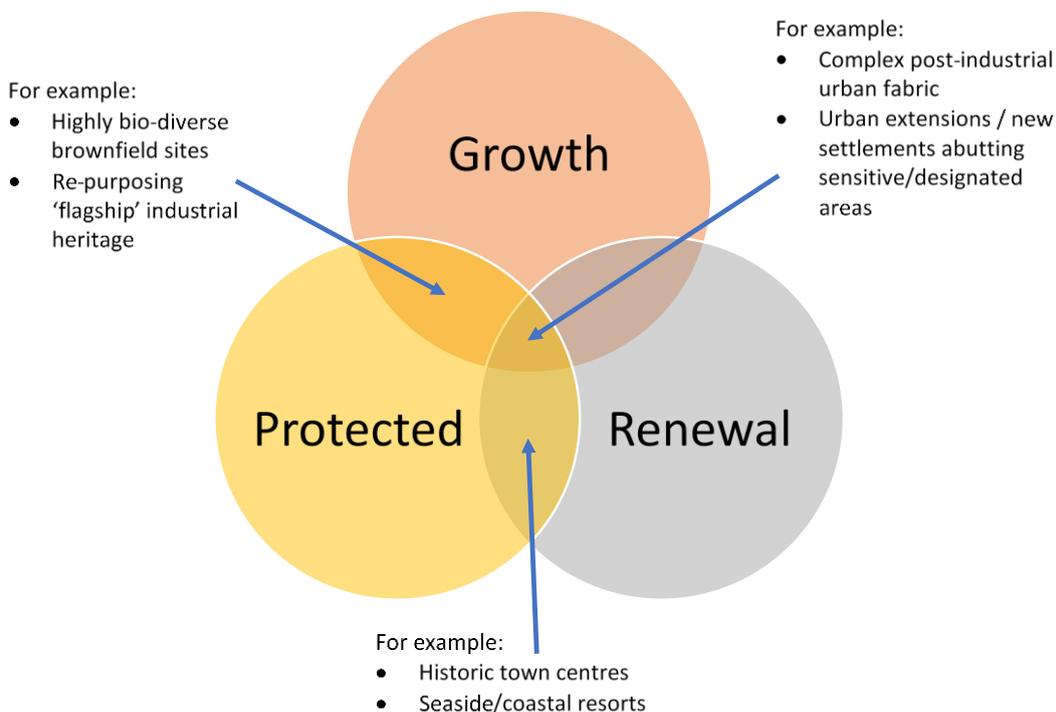
**Proposal 1: The role of land use plans should be simplified. We propose that Local Plans should identify three types of land – *Growth* areas suitable for substantial development, *Renewal* areas suitable for development, and areas that are *Protected*.**

### Question

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

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

We broadly concur that Local Plans should be simplified. However, we are not persuaded that zoning land into three categories of *growth*, *renewal* or *protected* is sufficiently fine-grained to reflect the complexity of real places. Even if one accepts the basic premise, it may be more realistic to consider the three categories as circles in a Venn Diagram:



It may be therefore that areas and sites could be broadly assigned to one of the three categories, but there would have to be flexibility to apply appropriate policies, either as layers or linked to sub-areas, to

reflect more complex local circumstances and where sites offer a mixture of characteristics and potential. To avoid over-complicated arrangements additional policies might be restricted either in number or extent as a minority proportion of the site. Otherwise a local plan map could end up being a complex mosaic of very small areas assigned to the different categories and making the plan hard to navigate.

It follows from our arguing for a more nuanced approach that we would not support the alternative option (paragraph 2.11) of more binary models. The approach in paragraph 2.12 might be a plausible middle ground, but it would be important that categorisation as a 'growth' area does not smother other factors that should be given weight in developing sustainable solutions for sites.

Growth areas should, logically, be relatively limited in number. And whilst this category could signal opportunity, it could also have a blighting effect on existing development within the boundary. This would need to be carefully handled in framing applicable policies.

For renewal areas, the White Paper sends mixed messages about the sensitive issue of inappropriate development of residential gardens (whereas the 3<sup>rd</sup> bullet of paragraph 2.8 suggests gardens could be included in protected areas). The societal (and biodiversity) value of gardens has been further highlighted during the Coronavirus pandemic. The Government's extension of permitted development rights already presents established communities not so much with "gentle densification" as the prospect of opportunistic demolition and replacement of existing homes and other premises with what can be unsympathetic and over-bearing piecemeal development. If those PDRs are retained it is even more important that design quality and standards, and impact on and contribution to local amenities and infrastructure, are as rigorously applied to development under PDRs as to consented schemes.

Paragraph 2.8 (3<sup>rd</sup> bullet) also maintains that, to ensure sustainability, development in Green Belts should be subject to stringent development controls. Green Belts' primary function is to constrain urban sprawl; but strict application of Green Belt policy has sometimes resulted in less sustainable outcomes, such as development 'leap-frogging' the Green Belt onto greenfield sites less well served in terms of amenities or public transport and giving rise to increased car-based travel to access employment and services. Reform of the planning system might be an opportunity to consider how sustainability could be better factored into Green Belt policy, supported by a clear appraisal framework to ensure the purposes and benefits of designation are fulfilled. A range of tools including natural capital accounting and assessments contributing towards Health and Wellbeing Strategies might be included as part of such an appraisal framework.

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

### **Question**

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.]*

One reason why local plans become complex is through seeking to be the 'one source of truth' for planning in their area. In other words, they incorporate national policies, interpreting their application to the local area, as well as locally specific policies. In principle, such an approach obviates the need for people to go to different documents to understand the planning framework for the area. In practice, we would concur that it often results in bloated documents that, given the frequency with which the NPPF is updated and amended, can quickly become out of date.

The 'one source of truth' approach could in some measure be achieved by suitable cross-reference to relevant provisions of the NPPF. If plans are established on digital platforms it should be possible for those references to be as readily readable and accessible as they would be if reproduced in the 'host' document, but without the burden of duplication. The NPPF is not, however, written as a set of policies: it sets out what policies should contain or aim to achieve. Establishing development management policies

at national level would therefore require comprehensive re-casting of the NPPF before these could be cross-referenced through local plans.

It is important, however, to avoid a one-size-fits-all approach. The NPPF should be what its title says: a national policy framework. By its nature it cannot cater for the diversity of local circumstances and that is why intelligent local planning policies are needed to reflect the balance that local consensus and leadership determines should be struck between different policy objectives and their applicability to particular sites or areas. In the interests of streamlining, the focus should be on capturing the outcome of that process without repeating all the process itself.

The White Paper places a lot of emphasis here (e.g. para 2.14) on the role of design guides and codes. In many respects it appears that local considerations might be worked out in design guides rather than plan policies, but with overall the same effect. In other words, design guides and codes could themselves become bloated documents seeking to embody local policies that have been excised from the Local Plan itself. It will be important that Local Plans and design guides are genuinely complementary and that neither tries to do the job of the other. That points towards the alternative option in paragraph 2.16 being more realistic, limiting the scope of local policies and standardising the way they are written, where local context and circumstances justify a modified 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.]*

We broadly support the direction of travel. But the interpretation of “sustainable development” has taken on a different flavour under successive Governments: this is not helpful to a planning system trying to shape the long-term character of places and irrevocable decisions about land use. What represents the most sustainable solution for any particular site will vary according to circumstances, but the test parameters for sustainable development should be clear and consistent with internationally-recognised norms and best practice, and immune to re-definition other than at least through primary legislation. The definition and tests should encompass all four pillars of sustainable development (for instance as adopted by UNESCO) – social, environmental, economic, and cultural.

Deliverability is a separate issue from sustainability: sadly, plenty of development that is sub-optimal in terms of sustainability has been delivered around the country. We therefore suggest that a test of deliverability, with its own assessment criteria, should remain separate from the definition of sustainable development.

A key test for Local Plans is whether their approach and policies are underpinned and justified by robust evidence. We concur with the White Paper’s view that the volume of supporting evidence typically associated with local plans has become over-burdensome, and keeping the evidence base up to date has become an industry in itself. But we suggest that the Paper goes too far in removing or reducing the role of evidence, partly because the data and evidence available at national level are not necessarily sufficiently comprehensive or fine-grained to apply locally. It might be helpful therefore to examine further which locally commissioned evidence and assessments add most value in ensuring that plans are well tailored to local circumstances and give a rounded understanding of sustainability.

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

Removing the Duty to Cooperate and exploring alternative mechanisms for addressing strategic cross-boundary issues such as major infrastructure seems a step in the right direction. The Duty to Cooperate

can work well, but it can also be characterised as a duty to have a conversation, not to reach an agreement or resolve difficult issues. On the narrow issue of accommodating housing numbers, it often leads to stalemate between authorities facing similar challenges.

The appropriate scale for cross-boundary strategic planning will vary around the country. In some areas, existing counties might be appropriate; in others, sub-county groupings (which may cross county boundaries) could be more appropriate, for instance aligned more closely with functional economic areas or natural geographies. A weakness in local determination of these matters is that they can be obstructed by a dissenting minority, even where a majority favour joint arrangements. One option might be for the government to consider setting thresholds for scale of schemes and types of infrastructure for which affected neighbouring planning authorities could be under a duty to agree joint strategic planning arrangements. But it should also be open to authorities voluntarily to enter joint strategic planning arrangements where there is consensus to do so. Appropriate measures would be needed to ensure arrangements endured (for as long as necessary), were properly resourced and had suitable lean governance to ensure effectiveness and accountability.

**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.]*

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.]*

We support the principle of a standardised methodology for calculating housing need, but the Government's current proposals are flawed and need to be reconsidered. Aside from producing perverse outcomes, many of which have been highlighted in responses to consultation on *Changes to the current planning system* (including by TGKP partners), the proposition that affordability is directly related to supply, and the mechanism for capturing that, is too simplistic. This is demonstrated in areas where new housing has been delivered in excess of assessed need, yet affordability (ratio of house prices to earnings) has worsened over the same period. The 'policy on' circumstances of each area (e.g. constraints arising from statutory designations) should also be factored into the assessment process at the outset rather than through post-calculation adjustment.

The implication of a 'sequential test' whereby assumptions about utilisation and densification on brownfield sites are made before other land constraints are taken into account is unclear and could have perverse outcomes. Rather than supporting regeneration of brownfield sites, it could lead to non-designated greenfield sites that face fewer delivery challenges than brownfield sites being targeted for development. It should also be recognised that many brownfield sites are years, even decades, away from being suitable for re-development (e.g. gassing landfill sites).

We do not support retention of the Housing Delivery Test. This has always been problematic because of planning authorities' limited leverage over actual delivery once consent has been granted. Those levers would surely remain limited unless tougher measures attach to consents, including shorter time-limits and stricter requirements about what comprises substantive commencement.

## **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.**

### **Questions**

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.]*

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.]*

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.]*

Automatic planning permission for substantial developments in *Growth* zones seems a high-risk approach. The potential for substantive impacts – both beneficial or adverse – suggests that such schemes should have close scrutiny to ensure that proposals align with policy objectives and requirements set in the Plan.

Local Development Orders do not necessarily lead to a significantly streamlined process, given the level of evidence and consultation needed to adopt them in the first place. They would generally only offer advantages where they cover sizeable areas that are likely to see a large number of separate proposals. There is currently limited incentive for local planning authorities to pursue LDOs, not least the up-front costs and loss of planning fee income. This should be taken into account as the Government considers any reforms to the structure of planning fees (proposal 23, paragraphs 5.17-5.18).

We do not support the suggestion that new settlements should be advanced through the Nationally Significant Infrastructure Project regime. The main objection is that this centralises decision-making to the Secretary of State and reduces local democratic accountability. Even the largest schemes brought forward in recent decades would struggle to satisfy a test of national significance. There may be a case for a bespoke regime to cover situations where major proposals span planning authority boundaries: locally agreed joint planning arrangements might cover this scenario, but an alternative regime may be needed where joint arrangements are absent. The NSIP regime should be focused on strategic infrastructure, not on broader development. Secretary of State intervention should be reserved only for the most exceptional circumstances, for instance through the exercise of call-in powers.

We note the intention to consolidate other routes to permission including simplified planning zones, enterprise zones and brownfield land registers. The last of these is different in intent and focus, being oriented to residential development, from the previous examples which are chiefly focused on business activity. Not all enterprise zones are covered by special planning arrangements: this was not an integral feature of the second-round enterprise zones designated in 2015/16, though some have independently put streamlined planning arrangements in place. We suggest that any consolidation should support zones' ability to make a distinctive offer to incentivise business investment and should be examined alongside evolving proposals for Freeports. We would urge further government consultation on this topic.

**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.]*

Generally, we support the proposals for greater use of digital processes. We suggest that allowance should be made for a transitional period during which digital and ‘analogue’ processes may co-exist. The consultation paper uses a lot of jargon in this section and it is unclear what a more ‘data driven’ system would look like in practice. The rationale for some of the proposals seems to be more about assisting national monitoring than necessarily assisting good local planning. It would be helpful therefore to see more detail and successful demonstration / pilot projects before rolling out new systems.

The proposal in paragraph 2.40 that permission might be deemed to have been granted where time limits are exceeded could be problematic. The paragraph in question mentions the desire to ensure that facilities and infrastructure are delivered quickly; but it is often the case that negotiating such associated infrastructure is the very thing that delays the determination of applications. It is not clear that the proposals for a consolidated infrastructure levy would overcome that issue. Deemed permission where time limits are exceeded could be counter-productive if it allowed development that is not supported by the requisite infrastructure. Measures to incentivise timely decision-making need to be matched by appropriate safeguards that ensure infrastructure requirements are provided for, and that development cannot proceed until they are.

**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.]*

Local Plans should be supported by an appropriate level of evidence. We agree that the burden of evidence should be lightened, provided that properly informed and balanced judgements can still longer be made. It is unclear whether the reference to “more limited evidence that will be expected to support sustainable Local Plans” amounts to removing unnecessary layers, which may be appropriate, or lowering the bar which would not.

The emphasis on visual and map-based interactive tools will be helpful to many users but there is a risk of exacerbating digital exclusion, bearing in mind that 10% of adults in the UK are classified by ONS as digitally excluded and it is estimated that on present trajectories 7.9 million people will still lack basic digital skills in 2025. It is important that digital processes should not themselves become a barrier to participation or disenfranchise people from engaging with the planning system. Accessibility considerations e.g. for those with visual impairment, also need to be carefully thought through in the design of digital systems and software.

**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.]*

We concur with the principle that public engagement at the plan-making stage, rather than on individual planning applications is highly desirable. However, in practice people are more likely to engage on something tangible such as a proposed development in their immediate vicinity than with the more nebulous concept of an area-wide plan. Shifting the emphasis of public engagement – and opportunity to have their voices heard – away from planning applications largely to plan making will need a process of public education to re-calibrate expectations. In order that the system gains public trust, it is also important that the opportunities for engagement and democratic accountability are not unduly squeezed. The proposals also seem to exclude elected members from having any role in the process other than at plan-making stage, or perhaps on some cases in *Renewal* areas, which would certainly be contentious.

Overall, we concur with the aim for a swifter plan making process, but it will depend on all key players having the resources to play their part. The 30 month start-to-finish schedule sketched out in the White Paper seems a best-case scenario which assumes that every stage progresses without complications or external factors disrupting the timetable. The latter could include, for example, national or local elections which directly affect the conduct and timing of consultation and decision-making processes. Similarly, seasonal considerations (e.g. impact of holidays on staff availability and public engagement) will need some flexibility to be built in.

The “meaningful public engagement” at two stages of the process, referred to in paragraph 2.48, appears quite limited. A lot of work would need to be done ahead of “stage 1” to design processes of public involvement, and the 6 months indicated for stage 1 would allow limited opportunity for iterative processes whereby, for example, communities have an opportunity to respond to proposals advanced by developers and landowners (once these have themselves been assessed). At stage 3 the opportunity for public comment is very limited. It suggests that “comments...must explain how the plan should be changed and why”: comments should be reasoned but should not have to be articulated in professional planning terminology.

Paragraph 2.51 suggests that Local Plans should be reviewed at least every five years. It should be clarified whether that means commencing a review after five years or with the aim of putting a reviewed plan in place within five years of the previous version.

We do not agree with either of the alternative options suggested in paragraphs 2.53 and 2.54.

**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**

**Questions**

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

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

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?

Broadly we agree with the retention of neighbourhood plans, though more detail is needed about how these would plug into the new system.

**SPEEDING UP THE DELIVERY OF DEVELOPMENT**

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

**Question**

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.]*

The Paper is thin on detail here and we look forward to seeing further proposals for encouraging swifter build out of consented development. Delivery beyond the granting of consent is largely out of the hands of the planning authority. Hence the Housing Delivery Test seems a blunt and inappropriate tool, but tighter time limits on the duration of permissions (“use it or lose it”), tougher requirements on what constitutes meaningful commencement and mechanisms for making build-out schedules more enforceable should be explored further.

## Pillar Two – Planning for beautiful and sustainable places

### Overview

#### Questions

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]*

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]*

As indicated in response to previous questions, sustainability and sustainable development should reflect all four ‘pillars’ – social, economic, environmental and cultural.

### Proposals

#### 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.**

#### Question

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.]*

We agree with the essential aim of improving quality of design. The White Paper gives limited detail, and we look forward to seeing the further proposals intended to implement recommendations from the Building Better, Building Beautiful Commission.

Whilst it is important that local character and vernacular informs design guidance and codes, we are concerned that expressions such as “provably popular locally” (paragraph 3.7) and “what is popular and characteristic in the local area” (paragraph 3.8) could encourage reactionary or unimaginative approaches that stifle innovation or progressive solutions. This is potentially more of an issue if codes are binding. Effective public engagement on design matters needs to include an element of challenge to generate healthy debate about how planning for the future may differ from what has happened in the past, including building archetypes. Appropriate expertise is therefore needed locally both to input into the content of design guides and codes and into the process of their development, including public engagement. This may be challenging for smaller planning authorities: alongside Government considering the resource implications, there may be scope locally for cross-boundary pooling and sharing certain resources and expertise.

**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.**

### Question

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.]*

See response to question 17.

The implicit emphasis in this part of the White Paper, as well as others, is on housing. But good quality design principles should equally apply to other buildings – mixed-use developments, commercial and industrial buildings, schools, hospitals, retail, public buildings etc and public realm. This gets only limited attention in the National Design Guidance published in October 2019. Since the Homes and Communities Agency was replaced by Homes England in 2018, and with the Commission for Architecture and the Built Environment having been folded into the Design Council in 2011, the championship of good design at Government level and across Government-sponsored activity has been diminished. We are not sure that creating a new national body is the right answer. But a centre of expertise, with a degree of independence but clearly meshed into Government, could usefully support and champion good design across the whole spectrum of development, feeding that expertise into Homes England and other national bodies and agencies, as well as providing professional and practitioner leadership.

In principle the idea that each authority should have a chief officer for design and place-making is welcome. Some Chief Planning Officers will already have those skills; implementing this across all areas would need additional resources and sustained investment in development and training.

**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.**

### Question

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.]*

We welcome this in principle, but reiterate the point made in our response to question 18 that better design needs to be embodied and championed across all types of development, not just housing. This broader perspective should be reflected in Homes England's objectives for any schemes or programmes that they are delivering.

### 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.**

### Question

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

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

We do not support this proposal. This is difficult territory because beauty is subjective. The concept of beauty should not be divorced from whether development is acceptable weighing up other relevant planning considerations. For instance, a beautiful building or development in the wrong place is still in the wrong place. There also seems to be a degree of naivety in extolling the merits of 'pattern book' development in this country. The fact is that virtually all volume housebuilding over decades has adopted a pattern-book approach, which is why similar designs can be found across the country with virtually no reference to local vernacular or distinctiveness. The proposed extension of permitted development rights in *Renewal* areas for standard building types and rules is a recipe for reducing to the lowest common

denominator and removing any semblance of democratic involvement in shaping how existing places evolve.

There should be no special treatment attached to schemes simply because they comply with local design guides and codes: all proposals should do so as a matter of course unless there are exceptional reasons justifying departure, otherwise they should expect to be refused.

Development control is in some respects the 'safety net' of the planning system, trying to ensure that consented development is carried out in accordance with the terms and conditions of the consent. The government's thinking on fast-tracking potentially places greater pressure on development management to ensure compliance, and perhaps a greater risk that developments fast-tracked for their beauty might deliver a lesser product unless held rigorously to account.

'Gentle densification' is a seductive phrase but masks rather less gentle realities – demolitions and replacement with larger footprints and higher buildings that could adversely impact the character of neighbourhoods. Greater densities also exert greater demands on infrastructure and amenities and these need to be fully taken into account to ensure those demands can be met in the neighbourhood.

We reiterate our opposition to further extensions of permitted development rights. The Government's own research has highlighted what planning authorities and commentators have been saying for years, which is that PDRs such as conversion of offices and industrial buildings to housing have resulted in too many cases of sub-standard housing and have had negative consequences for place-making and balancing different development needs – the antithesis of promoting beauty and sustainable communities. We acknowledge that the Government has belatedly taken steps to try and ensure higher standards for schemes brought forward under PDRs, and we welcome the proposal (20) that developments carried out under PDRs should contribute towards an infrastructure levy. But we can see no justification for further extension of PDRs and strongly urge the Government to drop the proposals in paragraph 3.19.

#### **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.**

We welcome a strengthened emphasis on combatting climate change, but this part of the White Paper is quite thin on detail so the scope for comment is limited. The main focus seems to be on trees. Increasing tree cover can be an important component of climate change mitigation, but their contribution needs to be carefully designed having regard for local circumstances and conditions. Like any other public realm assets, trees involve a legacy of management and maintenance and this should be factored into guidance and into infrastructure levy calculations. There may be a case for greater emphasis on community ownership of such assets, for instance through establishment of trusts supported by endowment funding to ensure natural assets are managed and maintained for the benefit of the community in perpetuity.

**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.**

There is insufficient detail in the White Paper to provide substantive comment. Paragraph 3.57 implies departure, post-Brexit, from European environmental measures that have hitherto applied in the UK. A wide range of EU environmental measures derive from international treaty obligations to which the UK remains a signatory. Rather than a de-regulatory rationale, reformed measures for protecting and enhancing the environment should be led by science and best practice. In principle we would welcome measures to speed up and unencumber the process of assessing environmental impacts, but the White Paper is vague about what this means in practice and we look forward to seeing more detail in the promised separate consultation.

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

We concur about the need for new uses to be found for many historic buildings and that the planning system should enable this in sympathetic fashion. More detail is needed to understand what these proposals might look like. The notion of ‘earned autonomy’ for experienced architectural specialists to handle routine listed building consents could, in principle, apply in other professional domains engaged with other aspects of the planning process, subject to clarification about what is categorised as ‘routine’. But it would be important to maintain robust accountability arrangements, both professionally and to local stakeholders, to ensure that delegated trust is not abused and to avoid conflicts of interest.

**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.**

This section also has limited detail, and we note the intention for further consultation. It is important that this covers all types of building – residential, commercial, industrial, and other uses.

Paragraph 3.35 refers to local authorities re-assigning planning resources to focus more fully on enforcement. This somewhat contradicts paragraph 5.10 which talks in terms of freeing up planners to do the proactive planning that they are trained for. Clearly any major reform of the planning system will have ramifications for professional education and training, and on existing practitioners’ career preferences. We suggest that a more thorough investigation is needed, to complement any system reforms, examining the implications for the planning profession and the structure and skills needs of local authority planning departments and in the private sector to deliver positively and effectively whatever changes are finally agreed by Parliament.

## Pillar Three – Planning for infrastructure and connected places

### Overview

#### Question

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]*

The response to this question is really “whatever is required”, subject to the specific circumstances locally, to ensure new development contributes towards sustainable communities.

The key issue, which is reflected in paragraph 4.18, is that those who stand to gain most from securing planning consent – i.e. developers and landowners – should normally meet the cost of any infrastructure and other associated works needed to ensure that their developments are sustainable. This should therefore be factored into the price developers pay for land. We welcome the indication the White Paper gives that the Government is open to exploring new mechanisms for capturing land value uplift that comes with planning consent. There needs to be a clear framework underpinned by fairness.

There is an inherent contradiction, though, that in trying to introduce measures to improve housing affordability the Government still chiefly looks to market housing to subsidise affordable housing provision. In effect, therefore – and not overlooking support the Government offers, including through Homes England’s affordable housing programmes – affordable housing is a ‘hidden’ tax that pushes up the price of market housing, makes mortgages less affordable and has knock-on effects on the private rented market. This also blurs the focus of what an infrastructure levy (or s.106 or CIL) should really be about.

### Proposals

#### 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.**

**Questions**

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.]*

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]*

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.]*

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.]*

CIL has clearly not been entirely successful judging by the proportion of areas that have not put a CIL scheme in place, in many cases because land values are insufficient to generate a positive CIL value. This, together with pressures on other funding streams and, for example, re-negotiation of s.106 agreements, results in an infrastructure deficit that, in turn, becomes a central issue driving opposition on the part of existing communities to much new development.

We therefore welcome in principle reform of mechanisms to fund infrastructure. Any new system should aim to capture at least the value of contributions under the current system, and ideally more given the evidence of deficits and under-provision through the existing system. However, there seem to be several difficulties and contradictions in the proposals suggested. For instance:

- It is not clear how the final value of development can reliably be assessed at the point planning permission is granted;
- It is unclear at what level the levy would operate – national, regional, local? Who would hold the ‘pot’ and determine its distribution?
- Levying the charge only at the point of occupation means there is likely to be a lag in delivering infrastructure unless there is an effective mechanism to secure up-front delivery. Clarification is needed about what “occupation” means, e.g. first or last;
- The suggestion that local authorities could borrow against predicated future levy income shifts the risk away from developers onto the public sector. There may be circumstances where there would an appetite for this, for instance under joint venture arrangements where the local authority might have some share in the returns on development to reinvest in the community. However, Government is strongly urged to consider the risks associated with this approach, given pressures on local authority finances and uncertainties around securing future income from developments in full;
- If land value uplift is below the levy threshold, this does nothing to assist with delivering infrastructure, it just absolves the developer from contributing. This would perpetuate the challenge in lower value areas of how to bring forward infrastructure in a timely manner, or at all;

- A flat rate based on the value of the development does not necessarily bear a meaningful relationship to the infrastructure costs associated with the development.

Much more thought and further consultation is needed to refine these proposals to ensure a workable system that will genuinely support delivery of infrastructure.

The White Paper is silent about the role of utility providers in delivering some of the infrastructure needed to support new development. Delays caused by utility companies and lack of alignment between their investment programmes and desired phasing of development in Local Plans or on specific sites is a frequently cited issue. We would therefore suggest that in considering responses to this consultation the Government should also review ways of ensuring better alignment, coordination, and solution-focused culture on the part of utility providers.

One aspect (at least) of s.106 obligations that seems to be overlooked in this part of the White Paper is that not all obligations are financial. Others may include agreements like skills compacts or policies, commitments around local procurement and recruitment in the delivery of development schemes, delivery of offsite mitigations or obligations that, for instance, link property sales to other commitments on the part of the developer. We would like to see more attention to how the proposed reforms would address non-financial aspects of planning obligations.

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

**Question**

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. Development under PDRs should be liable for an infrastructure levy in the same way as any other consented development.

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

**Questions**

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.]*

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.]*

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.]*

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.]*

As indicated in our response to question 22, it is debatable whether an infrastructure levy is the right mechanism to secure affordable housing provision. There is a risk, already evident under the current system, that affordable housing provision becomes a bargaining chip to set against other infrastructure requirements. The results can go either way: a road improvement or education provision are secured at the expense of a lower rate of (or no) affordable housing, or a policy requirement for a particular

threshold of affordable housing is met but only at the sacrifice of other amenities. A reformed system needs to produce better outcomes than this. Affordable housing provision should perhaps be treated as a separate cost heading and taken out of the infrastructure debate.

There are some contradictory ideas in these proposals. For instance, paragraph 4.23 talks about how, in the event of a market fall, local authorities might 'flip' a proportion of units back to market housing. It is unclear how this would help affordable housing provision.

The emphasis on promoting home ownership leaves a policy void in the White Paper around approaches like build-to-rent, and supporting growth of a vibrant and professionalised private rented sector attractive to institutional investors. Renting is an essential ingredient of a functioning housing market, supporting employment mobility and individual choice.

The alternative proposal set out in paragraph 4.25 sounds rather circular in operation, but it touches on an important aspect that should be reflected in the approach to design earlier in the document. This is that as far as possible mixed tenure development should be 'tenure-blind' with good quality space standards and design features applied regardless of the eventual tenure of individual units. This would support greater community cohesion and combat 'ghettoization' of developments with divisive demarcations between market and affordable housing.

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

#### **Question**

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

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

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

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

We support the idea of flexibility in how infrastructure levy income is spent, provided that this is transparent and publicly accountable. In practice existing routes do not necessarily generate sufficient funding to support infrastructure provision in full, so it is hard to see this being a regular occurrence under a new system unless there is appreciable uplift in levy income. Paragraph 4.27 refers to "core infrastructure obligations", but the text implies that "local infrastructure including parks, open spaces, street trees and delivery of enhancement of community facilities" sits outside the definition of core infrastructure obligations. Any physical or social infrastructure that is identified as required to mitigate the impact and support the sustainability of new development should be treated as core infrastructure – "must have" rather than "nice to have".

## **Delivering change**

### **How we move into the new system**

The final part of the White Paper does not pose further questions but sets out broad statements of intent with limited detail. We look forward to seeing further information, but make the following comments:

- Paragraphs 5.10 to 5.14 emphasise the need to develop the range of skills amongst planners and planning departments. This has implications for the entire professional training pipeline and the views of universities and professional institutions will be important in understanding how and over what timescale new courses and continuous professional development might be delivered.
- Paragraph 5.15 makes the important point about statutory consultees changing the way they operate. This should particularly apply to national agencies such as Highways England and Natural England, and to utility providers, placing a greater emphasis on solution-focused engagement.

- A system that significantly reduces the scope for objection to particular proposals seems likely to provoke more rather than less recourse to legal processes such as judicial review (paragraph 5.16).

## **EQUALITIES IMPACTS**

### **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?

The emphasis on a more digitally based planning system should be complemented by appropriate measures to help overcome digital exclusion.

The government must ensure that proposals secure, as a minimum, adequate funding for essential infrastructure to support growth, that statutory services do not suffer through lack of capacity and that pressure on existing services is mitigated. Any further pressure on service delivery (e.g. support for elderly and disabled people, or maternity services) arising as a consequence of new development (financially or otherwise) is likely to impact disproportionately on some people with certain protected characteristics and people facing socio-economic disadvantage who are more reliant on statutory services.

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