

Planning for the Future Consultation  
Planning Directorate  
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London  
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28/10/2020

Dear Sirs

**White Paper: Planning for the Future  
Response by the Home Builders Federation (HBF)**

Thank you for consulting the Home Builders Federation on the White Paper: Planning for the Future. The HBF is the principal representative body of the housebuilding industry in England and Wales. These representations reflect the views arising from discussions with our membership, consisting of national and multinational plc's, through regional developers to small, local builders. Our members account for over 80% of all new housing built in England and Wales in any one year.

We would like to make the following responses to the questions posed in the consultation:

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

It is important that the planning system is flexible, transparent and inclusive.

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

The HBF and our members are involved in every local plan across the country and the industry makes thousands of planning applications of all types every year.

**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]**

It should be possible to sign up to a direct email list or subscription for direct notification of plans, applications and decisions. It would be useful if all LPAs used the same process with standard formatting.



**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]**

The most important part of a plan-led planning process is to have an up-to-date local plan. It has been woeful to see the statistics of the number of local planning authorities who have not kept plans up-to-date or kept to their (self-proclaimed) programme for local plan production.

Even where they are up-to-date, plans must also ensure that they deliver what they set out to deliver. This is particularly important with regard to housing provision. The requirement for a five-year housing land supply, utilising a robust year-by-year trajectory plan is an essential check that the local authority maintain deliverable and developable sites to meet all housing requirements throughout the plan period.

It is vital that local authorities recognise the importance of the planning function and responsibility within the overall function of the local authority. This requires a corporate commitment to, and proper resourcing of, the planning function of the authority.

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

One of the reasons many LPAs struggle to keep plans up-to-date is the fact that such documents are seen as complex, all-encompassing documents. Plans frequently contain unnecessary background information or include policies that are not used to guide development or decision-making in any way. Simplification of local plans is, therefore, supported. However, we have some concerns regarding the government's proposals for such simplification as set out below.

Plans should be online, map-based. It should be possible to determine which policies of a plan apply to any plot of land within the LPA area. However, we believe that consistency between LPAs is essential, particularly adjoining authorities where land designations and policies frequently cross administrative boundaries.

Our main concern regarding the proposal for “area-based” plans is the complexity within what appears to be a simple process. The ability to designate the whole of the country into three “zones” for growth, renewal or protection is a complex process that will be subject to much debate both locally and sub-nationally. At a local level, the process of identifying areas as growth, renewal or protected will be politically sensitive and will require a fundamental change in attitude to the allocation of land for development which is currently predicated on allocating only enough land to meet development requirements for the next five years, following which, it is assumed the plan will be reviewed and updated (which it rarely is).

It is not clear how land will be identified as a growth area, nor how much land will need to be identified within this category in a local plan. While it is clear that assumptions will need to be made regarding the potential development capacity of renewal areas, such assumptions should be robust and based on clear evidence that this capacity will be realised within the plan period. Given that land identified as a

growth area will be granted an elevated status regarding its development (whether outline consent or permission in principle) it is highly unlikely that local planning authorities will wish to allocate a quantum of growth areas much in excess of that which will meet their housing requirement, taking account of the assumed capacity of their renewal areas. We are extremely concerned that many LPAs will make unrealistic assumptions regarding the development capacity of renewal areas and thus seek to minimise the identification of growth areas.

This process of how land is designated and thus promoted through the planning system is not adequately addressed within the white paper but is a critical element of ensuring that development targets will be met. The problem of how to measure the quantum of need for growth areas identified above will need to be part of the examination of a plan. There must be a mechanism whereby landowners or developers can challenge the decision of the LPA as to the class of land into which land has been designated.

The proposal to remove the need for a deliverable and developable supply of land for housing is not supported. The five-year housing land supply requirement is forward looking – ensuring that delivery of housing targets can be met within the plan's policies. While the retention of the housing delivery test is to be welcomed, this test is backward looking and delayed by some 18 months after the shortfall has occurred (the test results are published six months after the previous year's delivery has been monitored). Thus, areas where the delivery test is not being met will struggle to "catch up", particularly since a further six months of under-delivery has occurred before they find that a problem has occurred.

This is countered within the current planning system through the inbuilt "presumption in favour of sustainable development" within the NPPF. This applies where plans are out of date, where the LPA fails to maintain a five-year housing land supply or where they fail to meet the housing delivery test by a significant margin. The removal of this sanction within the planning system itself would be a significant retrograde step that would remove one of the key sanctions on LPAs and the need to produce up-to-date local plans.

Our experience in Wales, where they have removed the five-year housing land requirement and abandoned the need for up-to-date plans, clearly demonstrates the detrimental effect to housing delivery that removal of these sanctions will have across England, threatening meeting the housing delivery target of 300,000 dwellings per annum and addressing the housing shortfall.

Current labels of "growth", "renewal" and "protected" are misleading. Alternative labels should be developed to avoid confusion. We are particularly concerned that the white paper does not make it clear that (as suggested in para 2.10) development can occur in "protected" areas, subject to continuing to meet the protection of such assets. Without this clarity, many communities will lobby hard to become a "protected" area, believing that no development will occur within such areas. This is not the case.

There are different types of protection within the land-use planning system. The protection given to conservation areas is very different to that given to international designations such as SSSIs and RAMSAR sites. Similarly, some protection areas are merely protected through blanket policies such as green belt policy or landscape character assessment but it is possible for such assessments and allocations to be reviewed to allow for development. Indeed, this is at the very heart of the planning

system – the balance between the desire to protect everything with the need to meet development requirements.

We agree with the proposal to create certainty over development of areas identified for growth. It is vital that the development industry can rely on the designations being legally enforceable in order to make investment decisions based on such designations. However, we are concerned that, in order to provide the certainty necessary to, effectively, grant outline planning permission on such designated sites, will require significant amount of work very early on in the planning process. This will require significant investment with no certainty that a growth designation will be delivered through the plan-making process.

Similarly, the proposed sub-division of renewal areas suggested in para 2.10 will require significant amounts of work by the local planning authority and militates against any move towards a more binary model of zoning suggested in para 2.11. Certainly, in its first iteration, it is highly unlikely that zoning a whole local authority area (and, by inference, the whole country), to the level of certainty that is equivalent to an outline planning permission, will be achievable within the proposed 30 month programme set out in Proposal 8 of the white paper.

The problems identified above with the proposed move towards area-based plans suggest that the alternative proposal in paragraph 2.12, where greater certainty is given on allocated sites while other areas are subject to the current development management process, would, maybe as an interim step towards full area based plans, give greater certainty of a short term increase in housing delivery. This approach would certainly mean less up-front work at the local plan stages and would make local authorities less nervous regarding the allocation of growth areas.

**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. Under the present planning system, where local plan policies are deemed out of date the policies of the NPPF are applied. It is, therefore, feasible for development management policies to be set out nationally and applied at a local level without each LPA re-interpreting these policies.

We do, however, recognise that there may be instances where local circumstances require very specific policies within a local plan. The NPPF could make clear what such circumstances are.

**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?**

It is inevitable that, in order to undertake a sustainable development test, a number of factors will need to be assessed. The current tests for soundness set out in the NPPF (being positively prepared, justified and effective) will still be applicable in assessing whether or not a plan is considered to deliver sustainable development.

We agree that sustainability appraisal system should be replaced with a simplified environmental impact assessment.

Deliverability of a plan should remain a high priority in the new testing regime. “Sustainable development” comprises both the elements of sustainability and development. It is, therefore, important that local plans are effective in delivering development, particularly in meeting housing needs over the plan period.

Similarly, a key component of sustainable development is the provision of the appropriate infrastructure at the appropriate time, and sites should not be included in the plan where there is no reasonable prospect of the necessary associated infrastructure coming forward. Delivery of infrastructure beyond the development plan period may also be appropriate to support the planned delivery of strategic sites in line with the time frames set out within the plan. We have specific concerns regarding infrastructure planning and delivery associated with the proposal for a new infrastructure levy as set out in Pillar 3.

Paragraph 2.22 suggests a process of identifying a stock of reserve sites rather than testing deliverability. We do not support this proposition. The proposals for the new planning system should be clearly focussed on ensuring delivery of identified sites to meet housing needs. Thus, should remain a key element of local plans rather than merely relying on there being enough assumed capacity within identified renewal areas.

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

The replacement of the duty to cooperate with an alternative approach to strategic and cross-boundary planning will require further examination and explanation. We are concerned that, without such strategic planning, matters such as strategic employment, transport, infrastructure and the distribution of other regional services and facilities will not be adequately addressed.

We support the Government’s measures to accelerate local plan preparation to achieve full plan coverage in England. This should be the priority. However, we still believe that co-operative, strategic plan making will continue to be needed in many of our city regions and that there should be a role for directly elected regional Mayors in the strategic planning process. Indeed, the Government should consider bolstering the planning powers of the metro-mayors. Currently, only some have strategic plan-making powers. All city-regions with directly elected mayors should be conferred statutory plan-making powers.

Unfortunately, where such powers have already been conferred, the ability of the mayor to progress their plan has been compromised by the need to secure the unanimous support of all the constituent councils. This results in delay, and sometimes sub-optimal plan-making as Mayors are forced into compromises to keep local authorities on board. This contrasts with the situation in Greater London where the Mayor only needs a majority on the London Assembly to progress the London Plan. Consequently, a fresh London Plan has been prepared and adopted every five years since the Greater London Authority was established in 1999.

While it might be argued that the London Plan has recently become too detailed and too prescriptive, it does, at least, provide a planning framework for the 35 local planning authorities of the capital that is updated regularly. This means that even where individual local authorities are reluctant or slow to prepare a local plan (e.g. Bromley) there are up-to-date planning policies for each local authority in the London

Plan that keeps pace with new information on housing and employment needs. It also provides a very important and successful framework for infrastructure planning.

Outside of metro-mayoral city regions, the Government should explore options for a model of local authority cooperation. This could involve the production of a spatial framework for a grouping of local authorities, possibly based on the county council area. Such plans should be limited to considering certain specific strategic issues, such as planning for unmet housing needs and the planning of transport and services infrastructure. The preparation of these plans could occur concurrently with the production of local plans, and, like the *Combined Authorities (Spatial Development Strategies) Regulations 2018* governing the production of spatial development strategies, such plans should undergo one phase of public consultation before the plan is submitted to the Secretary of State for examination. While we would advocate that such strategic plans should also be subject to the same independent scrutiny as local plans, the process must not delay the preparation of local plans within the strategic area so that they fail to meet the 30-month deadline proposed by the white paper.

At the very least, we recommend that an agreement similar to current statements of common ground become a statutory requirement, with the introduction of sanctions where Councils fail to prepare and maintain them.

**8(a). Do you agree that a standard method for establishing housing requirements (that takes into account constraints) should be introduced?**

Yes. We can see considerable merit in housing requirements being established nationally (or sub-nationally) and being mandatory on each local planning authority.

However, we have major concerns regarding the transparency of the process of distributing a global figure across the country, in particular, problems associated with applying constraints to a standard methodology baseline and the acceptability/buy-in of those areas needing to compensate for constrained areas not meeting their full housing needs.

This is a particular concern regarding policy constraints such as green belt, tight settlement boundaries or local landscape protection areas. There is a threat that such policy constraints are self-fulfilling and result in a circularity within the process of allocation of housing requirements. A “policy on” approach, takes as read the policy constraints suppressing capacity to meet housing needs whereas reviewing such constraints, having regard to the need to increase housing delivery (as happens within the current system) would increase capacity and affect the distribution of the country-wide housing distribution.

The above factors are normally established or updated by Councils as evidence to support their plan review, individually or jointly with neighbouring authorities. This process necessitates undertaking Green Belt reviews and landscape visual and qualitative assessments to assess opportunities to release land for development to accommodate housing growth. It is unclear how this local information would be collated by a central team responsible for calculating the ‘policy-on’ housing requirement figure, and whether it will be subject to any independent review or testing to ensure its accuracy and robustness.

**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. Basing housing requirements on existing stock as well as household projections is appropriate. Using affordability indicators as a proxy for previous under-delivery over time is acceptable.

There is a need to retain the five-year housing supply requirement alongside the housing delivery test. The latter is backward looking and does not alert authorities to problems regarding trajectory of housing output until it is too late to do anything about it. The five-year supply requirement is forward looking and highlights potential delivery issues or overly optimistic assumptions regarding development within renewal areas.

As an alternative to the requirement for a five-year supply of land for housing (and to reduce the need for deliverability information) the government may wish to look at the potential of requiring a shorter two/three years supply requirement based on extant permission (with the retention of an annual trajectory on large sites) as an alternative to the current five-year supply requirement.

We would reiterate the need to review constraints as part of the capacity assessment rather than base a capacity assessment on current policy constraints such as green belt and existing settlement boundaries or other landscape character areas.

**9(a). Do you agree that there should be automatic outline permission for areas for substantial development (Growth areas) with faster routes for detailed consent?**

While we agree with the principle regarding greater certainty arising from an allocation of a site for growth, we have concerns regarding the amount of detailed work necessary to encourage LPAs to allocate sites for growth if they automatically gain outline permission (or even Permission in Principle). Our main concern is with regard to the potential delays to plan preparation due to the need to prepare detailed documents such as an LDO or design code prior to allocation of growth areas.

However, we support the proposal for a streamlined consent regime for details based on allocation. The current process of reserved matters could be applied to sites allocated for growth in the new-style, area based local plans. We would certainly encourage government to extol the benefits to speed of decision making through the greater use of delegated powers to officers at a local government level.

**9(b). Do you agree with our proposals above for the consent arrangements for Renewal and Protected areas?**

We support a proposed presumption in favour of development through legislation for renewal areas. In particular, we support the greater use of local development orders on renewal sites, particularly where these are prepared in conjunction with the landowner and/or developer to ensure both viability and deliverability of such sites.

Unfortunately, it is currently difficult to see how competing land uses in renewal areas will be planned for eg: specialist housing for older people. Similarly, the white paper is not clear on how other land uses, apart from housing, will be determined as acceptable. Similarly, many sites within renewal areas will be suitable for many

different, competing land uses yet the white paper gives no indication of how such competition for sites will be resolved.

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

New settlements are highly unlikely to come forward through the local plan process advocated in the white paper due to the assumption that growth areas will be in receipt of a consent similar to outline planning consent. However, such proposals will play an important part in meeting the need for development in future years. Therefore, there is a need to find a mechanism for delivering new settlements. Further work and explanation are necessary to explain how NSIPs would sit within the local plan process; for example, would a plan have to include an area of search before a proposal could be entertained? We will be pleased to work with government to develop answers to these, currently, undeveloped ideas.

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

HBF and our members have long been supporters of greater standardisation of processes, conditions, legal agreements etc. However, we are also aware of potential problems of there being an increase in refusal rates if the timetable for decision making becomes statutory. We have long advocated the benefit of an approval in 14 weeks as opposed to refusal in 13 weeks. Thus, any statutory timetable must include the opportunity to extend the decision period by agreement.

In order to incentivise positive planning, we suggest there should be rewards for faster approvals and delivery of implementable planning permissions. This could be achieved through a major rethink of the fee structure where staged payments (including an implementation fee) might incentivise faster approval and implementation of permissions.

We support the proposals in paragraph 2.39, in particular limits on documentation size, standardisation of datasets across local authorities and, in particular, the increased use of delegated powers to officers.

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

Yes. However, we believe that there is a role for central government to ensure greater standardisation and compatibility between local planning authorities.

**12. Do you agree with our proposals for a 30-month statutory timescale for the production of Local Plans?**

We support a statutory timetable for the production of local plans. However, such a timetable must be reasonable and achievable. The approach of a single plan stage is supported but it should be recognised that this may lead to considerably more representations being received, particularly from those aggrieved by designated areas not being in line with their expectations/wishes (whether developers, landowners or local communities).

We do have concerns over what sanctions will be in place for those who fail to prepare realistic (sustainable) plans or those who do not stick to this challenging timetable. The current planning system allows land to come forward for development



under the presumption in favour of sustainable development where there is no up-to-date plan. Such a sanction is clear and easy to apply through the appeals process. A similar approach must be maintained in any new planning system.

The current “review” process is often mistaken for a revision or updating process of local plans. We believe that plans should be kept up-to date and the review process must be formalised with independent scrutiny rather than LPAs being their own judge and jury. Indeed, we would go further and suggest that plans should be updated formally within a five-year period.

One of the key elements of a plan-led system is that everyone has a right to be heard and their views considered as part of the plan making process. Independent scrutiny is an essential part of that right to be heard and must be retained through the examination process. Removal of that critical element of scrutiny will result in a massive loss of transparency and acceptance of the planning process, particularly if local planning authorities became the judge and jury of their own local plans.

We therefore believe it is vital that independent scrutiny of plans is retained rather than random spot checks occurring, as suggested as an alternative option in para 2.54.

We are concerned as to how the promotion and examination of omission sites/additional allocations to meet housing requirement are dealt with through the plan-making process. The use of a single sustainability test for plans appears not to include any element of deliverability of sites. Such examination is essential if plans are to meet the housing requirements expected of them. It is essential that enough sites are allocated as growth areas to ensure the delivery of the plans’ objectives. To rely solely on heroic assumptions regarding the potential capacity of renewal areas, runs a significant risk that development will not be delivered and the plan will fail.

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

It is difficult to see what role neighbourhood plans would have under the new local plan process. Certainly, it is easy to see potential for conflict between local plan assumptions regarding growth areas or assumptions of renewal area capacity and constraints or protected areas being imposed through neighbourhood plans.

There is potential for conflict between development requiring enabling infrastructure being important to local people and the centralisation of the infrastructure levy resulting in that infrastructure not being delivered in a timely manner (or at all). There is no suggestion in Pillar 3 of the white paper that there will be a retention of the local element of CIL receipts in the new Infrastructure Levy.

**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?**

If neighbourhood plans are to be retained then local authorities must take a greater interest in their production, thereby ensuring they are consistent with the local plan (including digitisation). Neighbourhood plans should not be able to circumvent the local plan through the deallocation of designated growth areas or the inclusion of additional protection areas.

If neighbourhood plans are to remain as part of the development plan process there is a need for greater independent scrutiny of neighbourhood plan proposals. Without such scrutiny (including viability assessment of any policy requirements) such plans will, potentially, seek unrealistic requirements of development through the imposition of unviable or undeliverable design codes or development requirements.

On the basis of the above assessment, it would appear that there is little benefit to retaining neighbourhood plans and government should encourage community engagement to occur earlier and more comprehensively at the local plan level.

**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?**

As we have argued above with regard to retaining a need for a demonstrable five-year housing supply so too is there a need for clear trajectory planning to be retained regarding agreed build out rates.

We recommend that the government revisit the recommendations of the report produced by Sir Oliver Letwin (Independent review of build out, Oct 2018, CM9720). This report acknowledged the need to retain flexibility within agreed build-out rates in order to recognise changes over time with regard to the market and potential delays in delivery following re-planning etc. In particular, flexibility is required in the split of house size, type and tenure if changes in market conditions are to be reflected quickly in terms of build out rates.

**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]**

Design of development is influenced by many different, and often diametrically opposed, considerations. The use of design tools such as Building for Life 12 (updated in 2020 and now entitled Building for a Healthy Life) should be encouraged in order that discussions regarding design are based on sound and reasoned assessment rather than anecdote or prejudice.

**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]**

We support the concept of sustainable development. The need to provide for the development that we need within the context of social, economic and environmental considerations.

One of the key objectives of sustainable development must be providing enough dwellings to meet housing needs.

Many of the considerations in achieving sustainable development are national goals and requirements rather than local challenges requiring different, local standards. Therefore, we must ensure that local planning does not replicate other national regimes such as building regulations. Clear national targets, such as achieving zero carbon development, should be adopted and adhered to rather than setting myriad local targets which purport to achieve the same goal but in a different way or a different timetable.

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

The housebuilding industry is clearly interested in producing well-designed places and developments. However, we are also interested in pursuing innovation and the benefits of scale.

Design guides and codes must achieve a balance between greater clarity and certainty but guard against over prescription. There is an inherent tension between greater use of design codes, the adoption of “pattern books” and “popular and replicable design” (paragraph 3.19) and the oft stated desire for greater local vernacular and less uniformity.

It is essential that developers are included within the design guide and design code process. Viability and cost of design requirements are frequently not accounted for yet the cumulative impact of what may be, in themselves, small additional costs, can add up to unviable propositions.

Design guides and codes are, however, just part of a suite of design tools used to set out principles and standards to which development proposals must respond. Weight afforded to guides and codes must be balanced against other tools such as agreed masterplans, SPDs and direct engagement with communities in the evolution of schemes.

We are concerned over the availability of design skills within local planning authorities or, in some cases, the closed nature of some design professionals is assessing development proposals. We therefore welcome greater use of assessment tools such as local design guides or national publications such as Building for a Healthy Life, in order that structured and consistent discussions can be held between developers and interested parties. We would reiterate the point made above, that there should be flexibility in design codes, in particular, to allow developments to respond to changes in the market.

### **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?**

We agree with the need for local authorities to provide the necessary resources and expertise to engage with the design agenda and create design guides and codes for local areas. There may be a role for the development industry to assist in the pool of expertise and we believe it is essential for the development industry to be engaged with the production of design guides and codes for areas.

However, our experience of the previous Commission for the Built Environment (CABE) raises concerns over a new national body becoming self-promoting and self-preserving. We suggest that the body is established for a set period of time with a review process to consider its effectiveness and thus its continued role.

We are further concerned that there may be conflicts between a national body and local design guides/codes, particularly where local guides are prepared in association with local communities.

While we advocate the need for the development industry to engage in discussions regarding design quality, there is potential for such discussions to delay the bringing forward of sites (and thus delivery of housing). Delays could be introduced through referrals to design panels or the new national body, or for prolonged consultation processes on unnecessary detail within a design guide or code delaying the allocation of sites for growth.

**19. Do you agree with our proposal to consider how design might be given greater emphasis in the strategic objectives for Homes England?**

No. There is no need for a two-tier system. Development by, and on behalf of Homes England should be subject to the same design quality regime as other developments.

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

It is difficult to understand the proposal. Clearly policy compliance is the preferred solution for all development proposals hence all proposals which are policy compliant should be fast tracked. The development of design codes for growth areas should be produced in discussion with lead developers/a local development forum etc. Since development should be in accordance with such codes/guides the fast track is not for beauty but for policy compliant proposals – hence the same point as the first. The third proposal is to extend permitted development rights to embrace gentle densification through pattern books or the pre-approval of popular and replicable designs. This too is merely suggesting that policy compliant proposals (those that meet the permitted development rules) should be granted permission quickly.

Thus, there is no fast track for beauty being proposed – merely quick and efficient decision making for policy compliant proposals. We support the proposal that policy compliant proposals should be granted permission quickly and efficiently.

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

The provision of infrastructure alongside development is not just desirable but necessary. Whether that infrastructure is to mitigate the impact of the development directly or as part of a strategic vision for the wider area, local communities should be certain of its delivery in a timely manner.

**22(a). Should the Government replace the Community Infrastructure Levy and Section 106 planning obligations with a new consolidated Infrastructure Levy, which is charged as a fixed proportion of development value above a set threshold?**

No. The proposal is merely a revision of the existing community infrastructure levy – a single tariff-based payment which will be used to pay for infrastructure necessary to support development. The proposal therefore fails to provide sufficient detail on how developers will be able to mitigate the impact of their development, and we recommend the retention of S106 obligations or an equivalent provision, subject to future consultation.

A single levy, as proposed, would fail to provide sufficient certainty that the viability of strategic sites would not be harmed, and contradicts the current approach to viability

that requires specific viability testing of strategic sites at plan making stage to provide greater certainty that they are deliverable and are not threatened by the cumulative burden of policy costs and requirements. A similar, “whole development” approach to growth areas should be established rather than relying on a single payment of an infrastructure levy.

CIL was comprehensively reviewed by an independent group led by Liz Peace CBE in 2016. The final report of the CIL Review Group was published by the government in early 2017. The main recommendations of the Review were that Government should replace the Community Infrastructure Levy with a hybrid system of a broad and low-level Local Infrastructure Tariff (LIT) and Section 106 for larger developments. This would result in the maximum uplift in land value being captured for the benefit of local communities from development proposals while ensuring that all development contributed towards the costs of strategic infrastructure projects from which they would all benefit.

The government appears to have taken no consideration of the CIL Review report and has not addressed any of the issues of concern raised by the report regarding the unfairness or challenge of a single tariff-based payment system. One of the key problems of the proposed approach is the lack of flexibility in a standard charge approach. This is particularly important with regard to different types of site, different kinds of development and different market areas around the country.

The proposal in the white paper gives no indication of the level of the charge and thus how the statements that the new levy will capture more uplift in land value and more affordable housing have been calculated/justified. Without any indication of the proposed methodology to be followed in setting this charge (and, in particular, how the infrastructure will be delivered) there is no certainty that the necessary infrastructure will be delivered in a timely manner (or, indeed, at all).

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

Viability of sites varies both by type of site and in different market areas. Thus, any single tariff-based infrastructure charge must reflect local circumstances and thus be set at a local level. The experience of setting CIL rates across the country and the complexity of setting rates that are affordable in all circumstances is a clear indicator that the proposal for a single tariff-based levy is more complicated to administrate than the white paper acknowledges.

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

The only way to ensure that the maximum amount of uplift in land value brought about through the granting of planning permission while ensuring that development is both viable and deliverable is to base contributions on a site-specific assessment of viability. The white paper gives no indication of the proposed rate of the infrastructure levy and hence it is impossible to assess whether the proposal will result in a higher or lower tax return than the current system.

However, the measure of success should not be just in the monetary value of the contributions but should also be assessed in terms of whether or not it will, potentially, speed up delivery, reduce long negotiations and, most importantly, the timely delivery of the necessary infrastructure and affordable housing.

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

Yes. However, we expect great reluctance from LAs to do so (as they haven't done this with CIL), principally because they will have little faith that the system won't change again in the foreseeable future.

Because of this concern we believe that there should be a bigger role for central government in the forward funding of infrastructure to support development plans. Local authorities could submit infrastructure plans to central government and receive the funding necessary to deliver them. The money received would be paid back by the local authority in accordance with their development rates as set out in the local plan.

This alternative approach would ensure that infrastructure was delivered in step with development and would also act as an incentive for local authorities to ensure that development was keeping pace with local plan targets every year.

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

The driving force behind a single infrastructure payment should be that all development makes a fair and proportional contribution. Thus, all development should pay towards infrastructure and public services since all development benefits from associated infrastructure provision. Within the residential development sector, a standard tariff should apply to all development, including householder developments, self build properties and affordable housing. This was clearly recommended by the CIL Review team in their proposal for a strategic infrastructure tariff.

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

The provision of on-site affordable housing should be at the discretion of the developer. In a reversal of current policy, the default position of a simple tariff-based levy should be for the developer to pay the calculated infrastructure levy to the local authority rather than provide on-site affordable housing.

It will be important for any local authority who wishes to buy into the site for affordable housing stock to declare their intention early and to secure agreement with the developer prior to the development going ahead as a fair price for the housing will need to be agreed.

**24(b). Should affordable housing be secured as in-kind payment towards the Infrastructure Levy, or as a 'right to purchase' at discounted rates for local authorities?**

Once again, we would reiterate that the default position of a development would be that, as long as it pays the calculated rate of infrastructure levy there is no further

obligation on the developer to provide infrastructure. The provision of in-kind infrastructure, including affordable housing, is at the discretion of the developer not the local planning authority.

Giving local authorities a “right-to-purchase” or the ability to require on-site provision of affordable housing is not consistent with the proposal of a single payment, simple tariff system of developer contributions. Any such obligations on the developer will affect the viability of the development and will affect the land price and/or the GDV of the development, thus creating a circularity in the calculation of the amount of infrastructure levy payable from the development.

The proposal that the “discounted price” paid by the local authority would be “broadly equivalent to build costs” is, specifically, not supported. This could represent a significant risk to the developer in terms of recovery of ‘as built’ costs and the reasonable recovery of costs associated with delivering the unit including land, finance, planning, professional fees, site abnormalities and infrastructure and developers profit. There is a further risk of disparity between baseline build costs that are being used by a local authority and changes in costs over time.

**24(c). If an in-kind delivery approach is taken, should we mitigate against local authority overpayment risk?**

No. If a developer agrees to provide on-site affordable housing, the price paid for that housing is a contract between the purchaser (in this case the local authority) and the developer. If the local authority does not agree with the price required by the developer then it will fail to secure the on-site affordable housing.

**24(d). If an in-kind delivery approach is taken, are there additional steps that would need to be taken to support affordable housing quality?**

No. If a developer agrees to provide on-site affordable housing, the quality of that housing is covered by various controls such as the design code for the area and the relevant building regulations. Any further modifications to the in-kind affordable housing provision would be a contractual term between the developer and the purchaser (in this case the local authority).

By buying in to the existing or new stock, the local authority will be entering into a contractual agreement to purchase the homes for affordable housing. There is, therefore, no “right” to reject the affordable homes built as an in-kind contribution in favour of a cash payment. To do so will be a breach of contract and will trigger relevant penalties.

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

No. Infrastructure Levy should **ONLY** be spent on infrastructure – not reducing Council Tax or the cross-subsidy of other local authority services. It is important that local communities are given the infrastructure that they have been promised alongside new development. Developers will need to be able to rely on the agreed infrastructure being provided in a timely manner in order to fulfil obligations to purchasers who will be expecting the promised infrastructure to be delivered.

Once a developer has paid the liability of their infrastructure levy, any failure to deliver that infrastructure should, and will be, directed at the local authority and not the developer.

Local authorities should be required to publish annual accounts detailing the payments they have received through the infrastructure levy and the type and amount of infrastructure they have secured with those payments. This transparency will be vital so that local communities can be certain that their local authority is spending the levy on infrastructure and is securing value for money.

Such transparency would also force local authorities to set out their priorities for infrastructure since spending of the levy could be measured against such stated aims. These priorities would also assist in the provision of "in-kind" contributions where consideration could be given to a cascade mechanism or binding prioritisation of such contributions.

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

Local authorities should set clear goals for delivery of infrastructure using the new levy including the amount of affordable housing they will secure through such funding. An obligation to provide transparent accounts on an annual basis will ensure that local communities can hold their authority to account on the use of infrastructure levy and the delivery of affordable housing.

I hope you find these representations helpful. We would, of course, be happy to discuss the issues raised in greater detail and look forward to hearing from you.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Andrew Whitaker', written in a cursive style.

**Andrew Whitaker MA MRTPI  
HBF Planning Director**