White Paper – "Planning for the Future" (August 2020)

Pillar 1 – Planning for Development

Overview
As MSDC is a Local Planning Authority no response is proposed to Q1-4
1. What three words do you associate most with the planning system in England? Response None
2. Do you get involved with planning decisions in your local area? **2(a). If no, why not?** Response None
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? Response None
4. What are your top three priorities for planning in your local area? Response None

Proposal 1 - The role of land use plans should be simplified. We propose that Local Plans should identify three types of land – *Growth* areas suitable for substantial development, *Renewal* areas suitable for development, and areas that are Protected.
5. Do you agree that Local Plans should be simplified in line with our proposals? Not Sure The principle of zoning land for development or protection is not dissimilar to the current Local Plan process, whereby specific parcels of land are allocated for development (i.e. housing, employment, leisure, etc) and/or are designated and protected due to their environmental or historic characteristics. The Council agrees with this approach however, given the limited detail in the White Paper, the Council is not clear on detailed application of the zoning approach. <u>Scale of Zoning - Allocations</u> The White Paper is not clear on the geographic scale of each zone. For example, is it proposed that a zone covers large areas of the authority area with the same development principles across that zone (i.e. one blanket renewal zone), or will they be used to define individual sites or land parcels? The proposal places a very strong emphasis on plan-making. Indeed, the White Paper proposes that LPAs must allocate sufficient sites to meet the binding housing requirement. The Council **supports** the principle that development is most effectively delivered by a plan-led system, rather than speculatively, as:

- it provides more certainty for the community as well as those providing infrastructure to support such development. It is also essential to be able to categorise the type of development and yield on a site-by-site basis. Non-specific zoning of land would not provide the community, infrastructure providers or the development industry any certainty.
- it is also necessary to meet the statutory legal obligations such as the Habitats Directive. The Ashdown Forest Special Area of Conservation (SAC)/ Special Protection Area (SPA) lies in adjacent Wealden district, and is impacted by atmospheric pollution (particularly Nitrogen Dioxide as a result of transport movements) and is a significant constraint on development. The impact of traffic on the Forest was a key consideration during the preparation of the Mid Sussex District Plan. The Council commissioned detailed and costly transport and air quality evidence to demonstrate the combination of sites it was proposing would not have significant impacts on the SAC. The Inspector concluded that a stepped housing requirement would be necessary, with the step-up subject to there being no further harm to the Forest identified during the preparation of a subsequent Site Allocations development Plan Document (DPD). Modelling impacts such as this is only possible when specific developments (or a small range of development scenarios) are tested. It would not be possible to model blanket zones, or where there is no certainty of size/type/trajectory of development
- It would allow for a fine grain approach to the assessment of the extent of the impact of an individual site on, for example heritage and environmental constraints. Consideration of site impacts at a small-scale has sometimes been the difference between sites being allocated or not
- it allows for a site-specific assessment of details which would be required in view of the proposals to grant an automatic permission in principle to allocated sites i.e. whether safe access can be provided and whether there is sufficient transport (and other infrastructure) capacity. This would be near impossible to determine if the Local Plan was not able to allocate specific sites to meet needs.

The ability to continue to allocate specific areas/sites for development at Plan making stage is therefore **strongly supported**. This approach has worked well in relation to this Council's preparation of the emerging Site Allocations DPD.

Extent of Zoning

The White Paper suggests that 'all' areas of land would be put into one of the three categories – Growth, Renewal or Protected. The Council has concerns regarding the amount of resource required to achieve this. Mid Sussex is a large rural district which covers approximately 335km^2 and therefore classifying all areas of land will take time.

In addition, in order to identify sufficient sites to meet the binding development requirements a blanket approach towards the three Zones will not be possible.

Growth Zone

The Council considers that the 'substantial development' should be defined in local policy. What may be of 'substantial' size to one authority may not be to another and it is relative to the local authorities' size and existing settlement pattern. This Council's adopted District Plan contains four strategic allocations ranging between 500-3,500 dwellings, allocated as such due to the scale as well as on-site provision of essential infrastructure

(including health, education and employment). The Council assumes that such allocations would be the types of site that would fall into a 'Growth' zone.

In Mid Sussex not all development required to meet the binding development requirement will come from 'substantial' Growth Areas - whilst the MSDC District Plan allocated 4 Strategic Sites of between 500 and 3,500 homes the remaining development needs have and will be met on sites of less than 500 units. It is anticipated that under the new system these smaller site allocations would fall under the Renewal category.

The Council agrees that all allocated sites, whether identified in the Growth or Renewal Areas should benefit from the automatic permission in principle. It is agreed that sufficient work will have been undertaken at Plan making stage to support the principle of successful development and therefore it would be inappropriate to expect developers to again test the principle of development through an Outline Planning Application process.

Renewal Zone

The adopted District Plan contains policies whereby development within built-up areas is supported (providing specific criteria are met), and small-scale development of fewer than 10 dwellings is supported where the development touches a defined built-up area boundary. From the current White Paper definition, it would appear these areas are likely to be zoned as 'Renewal'.

Subject to the comments above, a blanket approach towards land within the built-up area being defined as a Renewal Area is supported as this would continue to allow for windfall development. Such 'windfall' proposals within a Renewal Zone should be subject to existing development management processes.

Protected Zone

Any reform to the planning system should recognise that there may be opportunities for appropriately located development in Protected Areas, for example, proposals which would support the vibrancy and vitality of local areas and opportunities to provide much needed local housing, particularly affordable housing, in some communities. For example, the MSDC District Plan Inspector considered that to meet our housing need development would be required and could be appropriate in protected areas such as Area of Outstanding Natural Beauty (AONBs) and in open countryside areas. However, it is important that such opportunities are identified as allocations through the Plan making stage in order to enable a proper assessment of alternative sites.

However, based on the assumption that Plans will have to identify enough sites to meet the binding need, this Council considers that it would be logical for there to be a presumption against any further development in defined Protected Areas over the Plan period. This approach would mirror the approach set out in current Green Belt Policies.

In line with the logic above, this Council considers that as part of the new plan making system all Green Belt authorities should be required to undertake a comprehensive review of their Green Belt in order to identify opportunities for development. Many authorities have not undertaken a Green Belt review. Given that the Green Belt it is an arbitrary designation to prevent coalescence rather than a designation for any landscape or

environmental reasons, if a blanket approach towards protection is applied without review then some local authorities (particularly Surrey and Kent Green Belt Authorities) will never be able to accommodate the housing and employment growth required which could lead to greater pressure for adjoining local authorities.

A revised planning system should be consistent in respect of the level of protection afforded to a policy designation (e.g. Green Belt) and one that has been designated due to its environmental character (e.g. AONB or National Park). At present, the NPPF sets a higher bar to development within Green Belt than AONB which is clearly incorrect.

Preferred Approach

The Council proposes the following approach:

- Growth Zones should be used to identify areas of substantial development only, at a scale to be defined locally
- Renewal Zones should be renamed and comprise two categories – "Built-up Area/Infill" and "Site Allocation". For each of these, area/site specific development principles such as density, design, type of use and capacity would be set out on a site-by-site basis in a similar approach to current allocations. This would provide certainty for the community and infrastructure providers as to the type and amount of development expected. It would be possible to test development scenarios (with respect to elements such as transport/air quality modelling) and clearly define how authorities would be able to meet their plan requirements. If required, sites that would likely fall into the 'Protected' category (such as AONB) could be defined as having potential for allocation although most likely this will not be required should the binding housing requirement reflect constrained areas such as these.
- Protected Zones should be defined following a proper evaluation or review of currently defined boundaries and development potential rather than automatically re-drawing existing boundaries. This is most relevant to Green Belt boundaries; there should be a requirement to review these as part of the plan-making process or preferably when setting the binding housing requirement. This would also allow some edge-of-settlement AONB/National Park sites to be identified for development to support local communities.

Additional Comments:

There is no information about transitional arrangements or existing allocations. For instance, a current housing allocation is 'saved' until superseded or deemed by the authority that de-allocation or re-allocation is required. This can sometimes mean current policies span multiple Local Plans, particularly those for large strategic sites being brought forward in many phases. It is unclear how these would be dealt with in a new Local Plan.

In Mid Sussex district there are zones which overlap: a large proportion of Mid Sussex is within a Zone of Influence from the Ashdown Forest SPA and although development is not precluded within this area, it would not be appropriate to blanket zone this as a 'Renewal' Zone as specific mitigation is required in this location, but it also would not warrant blanket protection.

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

6. Do you agree with our proposals for streamlining the development management content of Local Plans, and setting out general development management policies nationally? Not Sure

The Council can see the **benefit** of standardising some Development Management policies nationally. This would reduce the length and complexity of Local Plans, leaving them to focus on strategic issues. The drafting and examination of Development Management policies is time consuming and complex and would be better dealt with at a national level. In addition, local policies on national designations can raise the potential for different interpretations and legal challenges which again can be time consuming and costly.

Given the Government's ambitions for zero-carbon, there may be a role for sustainable design and construction standards to be applied nationally in order to provide certainty for the development industry.

However, there will still be the need for LPAs to set locally specific standards which reflect local circumstances. For example, on affordable housing, housing mix, and open space/community facilities. It may also be necessary to provide additional policy information and/or designations for issues not covered by national policy.

Therefore, the second alternative option; which offers flexibility to produce local policies alongside national policies, is **supported**.

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

7(a). Do you agree with our proposals to replace existing legal and policy tests for Local Plans with a consolidated test of "sustainable development", which would include consideration of environmental impact? Not Sure

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

The Council **agrees** with the proposal to remove or reform the current Tests of Soundness and agrees that there should be some form of measurement or test that proposed plans are fit-for-purpose. At present, there is inconsistency in how the Tests of Soundness are applied and examined during the plan-making process. At Regulation 19 stage, where stakeholders are asked whether the Local Plan meets the legal and soundness tests during consultation, local communities can find this confusing and therefore do not feel they can engage in the process.

The proposal to replace this with a streamlined and easy to follow test is **welcomed**. However, the Council is concerned over how a "sustainable development" test would simplify this process. There is ongoing debate regarding what constitutes sustainable development. Sustainability Appraisals under the current system must balance environmental, social and economic impacts – however finding the balance between all three components is often difficult and there is no indication as to how much weight should be afforded any one of them.

Paragraph 2.19 of the White Paper proposes to abolish the Sustainability Appraisals (SA). This is **welcomed** given the level of detail, cost and technical expertise required in producing such a report which is often not properly taken into account at Examination given pressures for development. However, the Council is concerned that the proposed simplified process only mentions environmental impact. It is correct that this would satisfy current law (specifically the Strategic Environmental Assessment) however would still require almost the same level of detail, cost and

technical expertise required to produce a Sustainability Appraisal. The Council therefore sees no benefit arising from the approach as currently framed.
The Council can see the benefits in reforming the Duty to Co-operate however cross-boundary impacts – such as specific development sites, transport, flood risk, water resources and employment etc should continue to be agreed at a cross boundary level. A requirement to produce Statements of Common Ground (SoCGs) is a good mechanism to demonstrate cross-boundary impacts have been discussed.

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.

8(a). Do you agree that a standard method for establishing housing requirements (that takes into account constraints) should be introduced? Not Sure

Mid Sussex supports the principle of establishing a standard method as reflected in our response to the recent "Changes to the Current Planning System" consultation. A standard method for establishing housing requirement is, in principle, welcomed as it would provide certainty and hopefully simplify what has become a complex and time-consuming process. However, the new standard method must be robust and take into account the significant concerns expressed by MSDC in its earlier response.

However, of particular concern is a 'one size fits all' or formula approach that discounts for constraints is unlikely to work; there are too many considerations which can only be properly taken into account with the input of LPAs who are highly knowledgeable about the local context. Will LPAs get the chance to present evidence given there are lots of local factors (beyond constraints) that will impact on whether the figure can be delivered (e.g. transport impacts, infrastructure capacity, Ashdown Forest/air quality impacts, availability of sites?). The Council would be concerned if LPAs were unable to have an input into the process. If it is to be determined nationally, then it is unlikely to best reflect local circumstances. Without proper scrutiny and testing, including of evidence that has fed into the approach, there is the danger that housing figures will not be robust and may face challenge; causing uncertainty and delay.

The proposed Standard Method for housing need achieves a national annual figure of 337,000 dwellings which allows for application of constraints. Mid Sussex, like other local authorities in the South East, is heavily constrained (i.e. AONB, consideration of European Designations in neighbouring areas, etc). Delivering the housing numbers indicated by the proposed Standard Method for housing need will be impossible without unacceptable impacts on the environment and local communities. Given that some authorities are more constrained than others the White Paper is currently silent on how any shortfall against the baseline Standard Method number should be redistributed.

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? Not Sure

Mid Sussex recognises that affordability is an important issue and can be a useful factor for considering the level and distribution of housing growth. However, as raised in our response to the Government's recent "Changes to the Current Planning System" consultation, we question the use of workplace-based median house price to median earnings ratio to measure housing need and, similarly, determine the district's affordability position. We refer you to our earlier consultation response.

The Council agrees that environmental and heritage considerations should be accounted for when setting the binding figure. It does, however, question the blanket inclusion of Green Belt and the statement "the existing policy for protecting the Green Belt would remain". Green Belt is a policy designation rather than for environmental/landscape reasons – there are likely to be significant areas within the currently defined Green Belt which are more appropriate for development than areas designated as open countryside.

Whilst the White Paper states that regard will be had for the size of existing settlements when determining the binding requirement, regard needs to be given to the limited development opportunities for infill development within urban areas, and only finite suitable/developable sites on the edge of them. For instance, the nature of existing settlements within Mid Sussex is relatively low-density (averaging 25-35dph within the district's three towns) with few opportunities for large-scale regeneration or densification. Mid Sussex has prepared a District Wide Design Guide which identifies opportunities for site optimisation in its three towns, however, a housing requirement based on assumptions about the extent of opportunities for intensification is unrealistic, particularly if local evidence is not provided as part of the process.

Whilst the Council broadly agrees with 'affordability' and 'urban-focussed growth' as indicators, there are other suggested factors set out within the proposal which may influence the distribution of housing, including; land required for other uses (i.e. employment growth); environmental designations; opportunities to better use brownfield land (densification); and inclusion of a buffer. Little or no detail is provided as to how these might direct housing distribution. The assessment of need for land for other uses and opportunities for densification must be evidenced; who will undertake this work is also not set out in the White Paper.

Additional Comments:

The proposal states that Local Plans should be for a minimum 10-year period. Given uncertainties in delivery and the requirement to review plans on a 5-year basis, the reduction in minimum plan period from 15 to 10 years is welcomed. However, clarification is requested on whether this is 10 years from adoption, as is currently specified in paragraph 22 of the National planning Policy Framework (NPPF), or another point in time (such as the start of the 30-month plan making period)?

Clarification is also sought on how and when binding housing requirement figures will be reviewed. The components that make up the Standard Method (affordability, household projections, housing stock) are published annually. Will this necessitate a review of the binding requirement? If so, this could cause unnecessary delay in the process. Given the 30-month period taken to prepare plans, the binding housing requirement could change at least twice within the plan-making period, with subsequent implications for the number of sites to be allocated. The Council proposes that

the binding housing requirement in place at the start of the 30-month period should remain as the housing requirement to be planned for, for the duration, until the plan is adopted. This would reduce uncertainty, time and cost in preparing the Local Plan.

The Council is pro-active in approving housing developments and has reviewed its processes to ensure there are no barriers to delivery (for example, by reducing the expiry dates for outline/reserved matters applications to help speed-up delivery). Despite having a healthy level of commitments ready to be delivered and being on target to meet the identified housing requirement in full, the Council continues to be challenged on its five-year supply which is costly to the authority. The removal of the five-year supply test is therefore welcomed given Councils are responsible for 'permitting' not 'delivering'. The emphasis should be placed on developers to implement their permissions – particularly where the principles have been accepted through an allocations process. Instead of Council's being penalised for not maintaining a five-year supply, developers should be penalised for not implementing allocations or permissions, perhaps with financial penalties for not doing so. Please see this Council's response to Q14 below.

Proposal 5: Areas identified as *Growth* areas (suitable for substantial development) would automatically be granted outline planning permission for the principle of development, while automatic approvals would also be available for pre-established development types in other areas suitable for building.

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

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

The response to these questions is set out in response to Q1 above. Mid Sussex Council believes in the principle of a plan-led system. A two-stage application process can hold up delivery and is frustrating for the site promoter as well as the Council who need to maintain delivery rates to satisfy the Housing Delivery Test and 5-year housing land supply requirements.

In addition, there are technical reasons why the current two stage application approach is not supported. The division between outline and reserve matters applications is problematic in design terms: the parameter plans and dwelling numbers that are set out in the outline stage will not typically consider the reserve matters in any detail, yet the subsequent design opportunities will often be limited by them at the cost of the quality of the scheme. The best design is iteratively conceived with the various issues tested at every stage including building height, topography, drainage, orientation, parking to name a few.

9(c). Do you think there is a case for allowing new settlements to be brought forward under the Nationally Significant Infrastructure Projects regime?-No

Mid Sussex District Council is **strongly opposed** to this proposal and considers that it would be an undemocratic way of progressing the most substantial and sensitive development proposals which would affect a community. It would completely undermine the plan led system. It would be difficult to plan for any residual development once a decision had been taken on a new settlement and therefore divorcing it from the plan making system would be illogical and inconsistent with the other proposals in the White Paper.

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

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

The greater digitalisation of the application process, particularly in respect of validation of applications, **is supported in principle**. Some 40% of applications are invalid when initially submitted to the LPA. This results in delays for the applicant and additional costs for the LPA and thus new ways of improving this would be supported.

Shorter and more standardised applications, which are machine readable, would also be supported in principle. It is important, however, that such applications are accessible and easily understood by all members of the community, not just those who are 'tech savvy'.

The proposed reduction in and standardisation of the documentation required to be submitted with 'major' applications is supported. It is crucial, however, that sufficient information is submitted so that planning applications may be properly considered against local and national policy and are easily understood.

The introduction of digital templates for planning notices **are supported**. The current statutory requirement to publish notices of some types of planning applications in a local newspaper is an inefficient, ineffective and expensive method of publicity.

MSDC is **strongly opposed** to the proposals for an automatic refund of the planning application fee if an application is determined outside of the statutory time limits, or otherwise benefit from a 'deemed permission'. The obvious consequence of introducing these proposals would be to increase the rate of refusal of planning applications within the statutory time period so that application fees did not need to be refunded or a deemed permission be granted. This would inevitably result in the submission of more appeals. The outcome would be completely unnecessary, resource hungry and entirely avoidable work for both LPA's and the Planning Inspectorate. This could also result in the delay to developments that might otherwise have been agreed after negotiation. The current 'extension of time' procedure works and allows for the negotiation of amended plans to improve an application and turn a possible refusal into an approval. This is unlikely to be possible within the statutory period because of the time needed to negotiate and advertise amended plans.

It is suggested that a better approach would be to front load the system on major development and require developers to enter meaningful pre-application discussions with LPA's so that any issues might be resolved before an application is submitted.

The proposal to refund application fees if the subsequent appeal is allowed **is not supported**. It would introduce non-planning reasons to determine planning applications in a positive way. A Council might decide to approve an unacceptable scheme because of the risk of an appeal being allowed to avoid returning the application fee. Decisions on many appeals come down to finely balanced judgements of issues and it would be unreasonable for a fee to be returned to an appellant if an Inspector formed a different judgement to the LPA on a subjective matter. This could be completely counter what the Government is trying to achieve to improve the quality of the design of developments, for example.

The application fee is required to enable the LPA to resource the determination of the planning application. Those costs would have been incurred even if the outcome is a refusal of planning permission. The determination of a planning application is unrelated to the appeal procedure. There is already a procedure in place for costs to be awarded against an LPA for unreasonable behaviour, including the making of unreasonable decisions.

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

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

In principle, this proposal **is supported**. It is recognised that text heavy Local Plans, as well as sometimes technical language used, can be difficult to penetrate and frustrate those wishing to understand the ambitions and growth planned for the area. As such, measures to help make Local Plans more accessible are generally welcomed.

In making Local Plans more visual and map-based there must be a balance. Visual and map-based aides can help communicate aspects of planning (i.e. distribution of growth) in a quick and effective way. However, text is essential in providing context and assisting with the interpretation of a Local Plan's objectives and policies, without it there is a risk of misunderstanding and delay. It is important therefore to consider that Local Plans have more than one audience – the community, planning professionals and the development industry.

However, this Council has **some concerns** about the standardisation of Local Plans and use of templates as this may stifle innovative approaches to Local Plan production, and the removal of local identity if standards and templates were too limiting in how Plans are produced, or the type/ extent of content to be included. Standards and templates should not hinder LPAs producing a meaningful Local Plan. An example of a template, or model version of a new style Local Plan would have been helpful in order to inform this response.

The success of the proposal is dependent on resourcing. LPAs are likely to be at different stages in digitalising their Planning systems. This Council would like to understand what Government support will be available to help LPAs integrate any new systems, including training, and whether the Government are proposing to implement a standardised system/ software for all LPAs. If new Local Plans are expected to be produced in this new way, and within the proposed transition arrangements, then the guidance and templates promised by Government need to be shared at the earliest possible point.

Whilst there are benefits to this proposal, in digitalising Local Plans the changes must not inadvertently exclude those that do not have internet access or chose not to participate with Planning in this way. Whilst over 95% of respondents to recent consultations engage with the Council using digital means, Local Plans need to remain accessible to all, including in a variety of formats.

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.

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

In principle, the introduction of a statutory timetable for LPAs and the Inspectorate **is welcomed but** this should not be detrimental to the quality of Local Plan production or scrutiny. Any timeframes and deadlines must be achievable.

The timetable has some potentially challenging elements. Stage 2 has a suggested 12 month timeframe; this will be particularly challenging if LPAs need to outsource specific and/ or technical pieces of evidence work (i.e. transport and viability). Furthermore, a substantial amount of work will now be required upfront to identify the Growth and Renewal areas under Proposals 1 and 5. This will be detailed work involving close collaboration with developers, and possibly third parties, to ensure allocations are robust; this will all take time. In addition, LPAs will be expected (under Proposal 14) to prepare masterplans and design codes to support development which, realistically, will need to be prepared alongside the Local Plan if LPAs want development to come forward against this additional framework.

It is noted that Proposal 7 states that Government forthcoming guidance will contain "*expectations around the more limited evidence that will be expected to support "sustainable" Local Plans*,". From this, it is implied that Government expects a reduced and less burdensome evidence base which is supported in principle given the time to produce this and cost to the taxpayer. However, until the detail of this guidance is available it is not possible to know how it will impact on the timeframes and whether they are realistic, or whether a Plan that is not supported by sufficient evidence (particularly regarding infrastructure capacity) is deliverable.

Additional Comments:

As proposed, there is only one opportunity for the public to formally comment on the draft Local Plan (Stage 3), which is, in turn, when LPAs submit their Plan to the SoS for examination. Therefore, an LPA loses the opportunity that currently exists to amend the Local Plan in response to comments from the local community as Stage 3 is essentially the end of the Plan preparation process. Having these two activities occur simultaneously effectively means that issues raised in representations can only be considered through the subsequent examination process. Risks to this approach are considered to be: the local community feel they have less influence on the evolution of the Local Plan; this could make the examination process longer and more complex; and higher risk of challenge through a judicial review.

The transition arrangements for the new system are crucial. Much, however, will depend on the likely timeframe for new legislation to be in force – the White Paper is silent on this. Mid Sussex, alongside many LPAs, are commencing work on a Local Plan review with submission anticipated in 2023. The transition arrangements give 30 months from the point legislation is brought into force for LPAs to adopt a new Local Plan under the new arrangements, or 42 months (an additional year) where a plan has been adopted in the last 3 years or submitted for Examination.
The Mid Sussex District Plan will be over 3 years old in March 2021, and submission of the updated District Plan is not expected until 2023 – the point by which it is 5 years old and therefore 'out of date'.

There is potential for Mid Sussex to be required to commence work on a new Local Plan mid-way through the process of reviewing its current one. The Council must continue working on its current timetabled District Plan review to ensure that an up-to-date plan continues to be in place. The work in producing a Local Plan is expensive and therefore there needs to be more clarity about when new legislation will be introduced and what the transitional provisions will be for any local authority which is deemed to have an 'out of date plan' during the transitional period.

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

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

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?

Mid Sussex District is fully parished and all town and parish councils (20 in total) have been designated to prepare neighbourhood plans, 18 neighbourhood plans have been made, and 2 parishes are currently consulting on their draft neighbourhood plan. The Council have been supportive of local communities preparing and progressing their neighbourhood plan.

However, the role of neighbourhood plans in the proposed revised planning system is unclear: as currently drafted Proposal 9 appears to limit the role to producing design guides. Considering that proposal 2 is to establish development management policies at a national scale and proposal 1 is to introduce zoning by local planning authorities, the place of neighbourhood plans in the new planning system is in our view confusing and requires clarification.

Proposal 10: A stronger emphasis on build out through planning

14. Do you agree there should be a stronger emphasis on the build out of developments? And if so, what further measures would you support? Yes

The emphasis in the White Paper is ensuring certainty and speeding up delivery of much needed housing. As set out in our response to the consultation over "Changes to the Current Planning System", MSDC demonstrated that it is a high performing LPA. Whilst planning authorities can ensure that there is a 5-year housing land supply of sites, it is the developers who implement the permissions. If the government is serious about tackling affordability, developers should not be allowed to land bank and this part of the planning system needs to be addressed.
Therefore, the proposal to place stronger emphasise on the build out of developments with associated penalties for developers who seek to land bank is **strongly supported.**

MSDC considers that there should be a system of penalties imposed on landowners/ promoters/ developers to incentivise the implementation of development on their allocated sites (as through the current proposals these will have the benefit of an in-principle permission). Such a penalty should be applied to all types of development, not just housing. The financial penalty should be transferred to Local Planning Authorities - penalties

related to housing schemes should be ringfenced to bring forward affordable housing and penalties related to employment proposals should be used to improve necessary infrastructure which would support employment growth (ie digital/sustainable transport measures etc).

Pillar 2 – Planning for Beautiful and Sustainable Places

Overview

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

Mid Sussex **welcomes** the emphasis on 'Planning for Beautiful and Sustainable Places'. The scale of housing and employment growth in Mid Sussex is one of the most significant in West Sussex. If the character and quality of our towns and villages is to be maintained, it is vital that new development is responsive to its local context and is designed to a high standard.

In order to ensure excellent standards of design quality, Mid Sussex has a qualified Urban Designer in the Planning Team; operates a design review Panel which is chaired and supported by local architects; runs a Design Awards scheme; and is in the final stages of producing a District Wide Design Guide SPD. Notwithstanding this, the quality of some developments is still not as high as the Council, or its residents would wish. This is because planning applications need to address an increasing number of complex considerations (with design being just one of them) that need to be considered and appropriately accommodated. It is often a challenge to balance these considerations and to achieve the optimum design response within the limited available timeframe. A simple adherence to a design code will not necessarily lead to good quality design or beautiful places. Design is something which developers must consider at the very outset of any proposal and is often something which benefits from early pre-application discussions.

The over-reliance on a comparatively few large volume housebuilders has impacted on quality, both because of their corporate strength to push through schemes and because their standard design approach tends to deliver unimaginative and ubiquitous-looking schemes.

16. Sustainability is at the heart of our proposals. What is your priority for sustainability in your area?

The Council **strongly agrees** that the issue of sustainability needs to be an integral part of plan making and decision taking. Accordingly, there is no single priority in the area for sustainability.

Additional Comments: The importance of creating sustainable communities

A key priority for new residential development should be the requirement that a proportion of the development provides affordable housing to include both affordable rented and low-cost home ownership tenures. This ensures that sustainable communities are created for the long term that meet the housing needs of all groups in the local authority's area including those on low incomes and those who are reliant on benefits. In addition, the needs of all sectors of the community must be addressed through new development to meet the requirements of the Public Sector Equality Duty to eliminate unlawful discrimination, harassment and victimisation, advance equality of opportunity and to foster good relations. The needs of specific groups who have protected characteristics such as older or disabled people should be taken into consideration in any plan making and there should be a requirement that plans pay due consideration to equalities legislation. Projections of demographics including the ageing population should be a consideration.

If the affordable housing threshold is raised nationally there is a risk that significant numbers of affordable homes will be lost and the opportunity to create sustainable communities meeting the needs of households at all income levels is put at risk. This is particularly true in rural areas like Mid Sussex where new developments in the rural villages are likely to be smaller.

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

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

This Council's response to Q16 sets out Mid Sussex District Council's **strong support** on the government's emphasis on high quality design.

Design guidance is a helpful tool that provides a necessary level of additional detail that supplements and explains existing policy and provides greater clarity for all stakeholders.

Design guides and codes can come in many different guises ranging from the micro to the macro level and can cover areas of varying size and characteristics. In all cases there is a risk of codes and guidance being overly simplistic and inappropriately prescriptive. Every proposal presents a unique set of circumstances and the best schemes are normally the ones that most sensitively respond to their context.

Detailed design codes are often most appropriate when they focus on the design standards of particular large-scale developments that has already responded to a comprehensive site appraisal.

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

18. Do you agree that we should establish a new body to support design coding and building better places, and that each authority should have a chief officer for design and place-making? Yes

As noted in this Council's response to Q16, Mid Sussex District Council already has in place measures to ensure that design is a key consideration in plan making and decision taking. However, this approach is resource intensive and in order to implement these proposals, which **are supported**, additional resources will need to be made available to LPAs.

Proposal 13: To further embed national leadership on delivering better places, we will consider how Homes England's strategic objectives can give greater emphasis to delivering beautiful places.

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

Mid Sussex Council **strongly agrees** that Homes England has demonstrated a leadership role and has demonstrated how high-quality place shaping can be delivered without impacting on profit.

Mid Sussex has an excellent relationship with Homes England and in partnership is delivering the flagship Northern Arc Project. A requirement of the Council's District Plan Policy for the Northern Arc Strategic Allocation was the development of a Masterplan to be approved by the Council prior to the determination of any planning applications. The Masterplan has been approved as a material planning consideration. Through the preparation of the Planning Application the Council has approved a specific Design Guide against which all future reserved matters (RM) applications will have to be considered. These arrangements will ensure that the Northern Arc will be an exemplary development and this approach could be successfully replicated for all Growth Zones.

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

20. Do you agree with our proposals for implementing a fast-track for beauty? No

Good design (or beauty) does not exist on its own and is related to other considerations and it is only through properly understanding these inter-relationships that a good design response can be achieved. It is therefore important there is the adequate time built into the process to ensure this level of consideration. The provision of design guidance can help to provide applicants with more clarity and certainty at the beginning of the process, but this should be seen more as a means of improving the quality of decision-making rather than a time-saving exercise; if it is re-branded as the latter it risks being a self-defeating exercise.

There is a risk that pattern books will reduce or remove local identity and distinctiveness and will not allow for innovative or exceptional design

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.

The commitment to promoting long term sustainability **is supported**.
It is unclear whether the 'areas' referred to in Proposal 15 means a geographical area or a topic/ issue.

The role of ecosystem services and green infrastructure should be recognised in mitigating and adapting to climate change alongside the environmental benefits they bring.

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.

The commitment in the White Paper that the proposed reformed planning system will continue to protect places of environmental and cultural value **is supported**. However, biodiversity and green infrastructure should be present in all three proposed zones (Growth, Renewal and Protection) and not just in designated sites. Biodiversity and nature cross boundaries and function at different spatial scales, so there is a need to avoid a disconnected natural environment. Numerous benefits have been documented about the importance of green spaces and wildlife to people's physical and mental health, so developments should incorporate both biodiversity and green infrastructure. The White Paper highlights biodiversity net gain and Local Nature Recovery Strategies as included within the Environment Bill.
Ecosystem services also need to be considered including the role of land for food production.

It is understood that there will be a consultation on the proposed framework for environmental assessment in Autumn 2020. There is currently insufficient detail on the proposed framework for environmental assessment to be able to comment in full. It is agreed that environmental considerations need to be considered properly as part of the planning process. A simplified process that reduces time, duplication and expense may be beneficial, however, the proposed new framework for environmental assessment will need to be robust and will undoubtably still require a certain level of technical expertise. Any new framework for environmental assessment will need to be fully integrated with the Environment Bill and current national and international legislation.

If Growth areas lead to outline approval, it may be that the detail currently required for EIA would just be brought forward to the plan-making stage. The Conservation of Habitats and Species Regulations 2017 (as amended) (the 'Habitats Regulations') are not mentioned in the White Paper. The process of Habitats Regulations Assessment (HRA) ensures that a plan or project will not adversely affect the ecological integrity of a European conservation site. Clarification is required as to whether the Habitats Regulations will be included within the proposed framework for environmental assessment. If so, there are a number of principles embedded in the HRA process that will need to be taken forward in the proposed framework. This includes the precautionary principle, the assessment of a plan or project alone and in combination with other plans and projects, mitigation and compensatory measures.

Increased tree planting may not be appropriate for all areas, for example, where other special habitats need to be conserved.

Alongside habitats and species, landscapes are also valued, both designated and non-designated. It is unclear how the White Paper links to the recommendations of the recent Landscapes Review 2019 (the 'Glover Review').

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

This section envisages that Local Plans will clearly identify the location of internationally, nationally and locally designated heritage assets. Whilst it would be relatively easy for any such plan in the Mid Sussex area to identify nationally designated assets and locally designated Conservation Areas. MSDC does not hold an adopted Local List (a list of buildings of local architectural and historical interest) At present, LPAs have the flexibility to identify such non-designated heritage assets as they become aware of them Councils may not have the resources to identify a

comprehensive list of such buildings in one process, and secondly that many buildings which are of local interest may be as a result in effect unprotected.

Sustainability and the move towards net zero in historic buildings are likely to become of increasing significance in years to come, and any guidance which can be provided by appropriate bodies (for example by Historic England) on how greater energy efficiency can be achieved in this context without damaging the significance of the affected assets would be welcomed. Any changes to the planning system should take a balanced, holistic approach which considers the efficiencies which can be achieved by the various retrofitted measures which are available against any resulting harm to the significance of the assets. There will be instances where energy efficiency measures will be unacceptably damaging to historic buildings or areas and where the benefits will not outweigh this harm - the planning system must continue to allow for the refusal of such schemes.

Any changes to the listed building consent regime would need to be very carefully considered. It is not made clear what is meant by 'routine works'- regular works of repair and maintenance if properly carried out would not currently require listed building consent and it is difficult (with certain very limited exceptions) to envisage which works which exceed this would be 'routinely' acceptable. A blanket approach is unlikely to be appropriate with such a diverse range of assets, all requiring individual assessment of their significance.

It is also not clear what is meant by *'the most important historic buildings'*. At present consent is required for works affecting the special interest of any grade of listed building (I, II* and II). The great majority of listed buildings are Grade II listed and are an irreplaceable national resource. Any removal or reduction of the protection currently afforded to these buildings would be highly contentious and potentially extremely damaging. The potential proposal to allow certain 'architectural specialists' autonomy from routine listed building consents also raises very significant concerns, not only again with the definition of routine but also the obvious potential conflict of interests between a client's requirements and the best interests of a listed building, under which such 'specialists' would be operating. There would also be significant issues arising from how such a scheme was implemented and by whom and how it was policed and by whom. If these responsibilities fall on the LPA they must be properly resourced.

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.

Mid Sussex considers that Buildings Regulations should mandate the requirements for sustainable design and construction so that this is not a matter for debate at the application stage and instead a requirement of the development industry.

Monitoring of design specification versus actual performance is a key consideration to provide assurance over energy, biodiversity and sustainability standards. Independently reported national standards for post development implications and impact would be helpful.

Pillar 3 – Planning for Infrastructure and Connected Places

Overview

21. When new development happens in your area, what is your priority for what comes with it?

Selecting a single element to answer this question is unlikely to be representative of the approach followed by the Council and the elements taken into consideration when compromise is required to unlock development on a particular site. The Council primarily aims at achieving an appropriate balance between the various elements listed within this section to create sustainable communities. Each case needs to be considered in relation to the latest information available within the area to allow the Council to make the decision that will best serve and support the local community whilst making the proposed development acceptable in planning terms.

More affordable housing is a priority for Mid Sussex where there is a high level of need. Under the current planning system, the requirement for affordable housing is based on the applicable threshold and secured via a Section 106 agreement. This mechanism ensures the delivery of the affordable housing is protected over the long term. The negotiated Section 106 agreement prescribes the location, size, type, occupancy requirements, tenure and affordability of the affordable units including the proportions of low-cost home ownership and those for rent. The Section 106 agreement also includes the requirement of a nomination agreement that secures the local authority's rights to nominate households in need from its housing registers to the affordable housing provider. This ensures that local housing needs are prioritised for allocation of the affordable housing in perpetuity.

The proposed changes **are a concern** in a number of respects:

Firstly, the current system does not generally put the delivery of affordable housing at risk because the overall viability of the development cannot meet all the infrastructure demands. These are not overtly in competition with each other as they would be potentially under the proposed flat rate infrastructure levy. The existing CIL system did not include affordable housing in recognition of this conflict of interest whereas the new proposed flat levy does not account for this.

Secondly, the proposals in the White Paper provide no detail on exactly how the affordable housing provision would be secured through the flat levy or how affordable housing would be delivered to create sustainable communities. Without such mechanisms in place affordable housing delivery could be jeopardised on new development sites. The provision of money via the levy in lieu of on-site delivery will not be an adequate substitute to what is currently achieved through the Section 106 approach, without an appropriate mechanism attached that provides additional controls and safeguards.

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.

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?

The proposal to introduce the Infrastructure Levy to replace all current arrangements to secure developer contributions **is not welcomed**. Although it is attractive that the Infrastructure Levy would be non-negotiable and that individual viability assessments would no longer need to be dealt with, other issues need to be considered and their absence from the White Paper raises concerns.

Concern 1) The current developer contribution arrangements allow both financial and in-kind as well as on-site and off-site contributions to be secured.

Mid Sussex District Council currently secures developer contributions via Section 106 planning obligations and the Council is effective in using this mechanism to secure infrastructure. Section 106 agreements allow the Council to secure both financial and in-kind contributions as well as ensure on-site and off-site infrastructure and affordable housing delivery. For example, in 2019/20, two primary schools, community buildings and facilities, Gypsy & Traveller provision, waste facilities, health provision, and transport/ highways works were secured as non-financial obligations using Section 106 planning obligations.

Of particular importance, mitigation for the Ashdown Forest SPA in the form of Suitable Alternative Natural Greenspace (SANG) and Strategic Access Management and Monitoring (SAMM) is currently secured by the Council through Section 106 planning obligations. Whilst financial contributions towards SANG and SAMM could potentially be secured through the proposed Infrastructure Levy (assuming sufficient funds are collected to cover the mitigation), there are also concerns with this approach. To satisfy the Habitats Regulations there needs to be certainty with mitigation and local authorities will need to ensure that mitigation for European sites is funded as a priority. The provision of SANG sites as part of a development is also currently secured through Section 106 planning obligation and this includes both financial and non-financial obligations. It is unclear how future SANG sites will be secured if Section 106 planning obligations are abolished and reliance placed on a new Infrastructure Levy which seems to focus on financial contributions.

It is difficult to understand how the proposed new mechanism to secure developer contributions will be able to at least secure the same level of on-site affordable housing as well as the in-kind infrastructure alongside contributions to serve local communities whilst ensuring viability. The White Paper seems to leave a lot of space for negotiation with regard to in-kind delivery of affordable housing and infrastructure which will have significant impacts for local communities if developers are not willing to provide these items on-site. It is noted that it is envisaged that the Infrastructure Levy is expected to increase revenue for affordable housing and infrastructure, however it has become increasingly clear that the delivery of appropriate infrastructure does not exclusively come down to funds but must be sensibly located to best support local communities.

Therefore, lengthy agreements will still be required to ensure that infrastructure is provided in the right place at the right time for the benefit of both developers and communities, particularly if a developer needs specific infrastructure to be delivered in order to enable a development to proceed.

The agreement will also need to cover the delivery of the affordable housing units, including First Homes (even if they are provided directly by the developer), and to ensure that the units remain as affordable units in perpetuity.
Concern 2) The proposal to introduce a unique approach to developer contributions fails to take into account the singularity of each area
Section 106 collection, administration, monitoring and governance works well in Mid Sussex. The process is running smoothly without delaying determination. It is generally well understood and accepted by all parties and on this basis has been unchallenged. More importantly, the Council has been using all contributions in line with the agreement and has not had to pay back contributions which means that infrastructure delivery is happening as required and identified.

Although the Council is aware that this may not apply to all collecting authorities, we would query whether a "one-size fits all" approach is necessary.

A more flexible approach (e.g. implementation is voluntary for the first 5 years after the regulation comes into force) may give reassurance for authorities where developer contribution arrangements have shown to be successful that the proposed approach may be at least as beneficial for their area. The choice to not implement the Infrastructure Levy could also be the exception to the rule and require a thorough assessment of infrastructure planning and delivery at the local level subject to review.

Concern 3) It is unclear from the information provided within the White Paper how the proposal will introduce more certainty
Uncertainty is likely to arise with regard to the level of contributions to be collected and the delivery of specific infrastructure.

Since the levy as proposed would be charged on the final value of development – with a minimum threshold below which nothing would be paid, it would not be determined until the end of the project and would therefore give developers and charging authorities less certainty about the level of contributions payable. As a result, it may actually increase risk and cause cash flow difficulties for some developers, particularly SME's. Further information on the proposed approach to phased schemes would be welcomed.

The fact that the proposed levy would also be levied at the point of occupation rather than start on site may also make the prevention of occupation more difficult to use as a potential sanction for non-payment, although this is the intention. Also, there is no clarity about the process for verifying the value to be used.

With regard to infrastructure delivery, securing developer contributions via Section 106 planning obligations means that specific infrastructure projects must be identified prior to planning permission being granted in line with the regulation 122 test. To help this process, the Council has prepared a detailed Infrastructure Delivery Plan precisely identifying the infrastructure to be delivered alongside each site allocated within the Mid Sussex District Plan and associated Site Allocations DPD. The Infrastructure Levy is proposed to be raised based exclusively on the level of surplus achieved by sales value and therefore the Council will have no certainty on the level of funds likely to be raised at the point of completion. Therefore, the funds will be unrelated to the cost of individual items of infrastructure required to support development.

Concern 4) Further details on potential transitional arrangements would be welcomed
The proposed Infrastructure Levy is likely to solely apply to future panning permissions; therefore, some Councils will be required to operate and maintain at least three sets of data, procedures, mechanisms and governances to secure developer contributions and deliver infrastructure and affordable housing.

22(b). Should the Infrastructure Levy rates be set nationally at a single rate, set nationally at an area-specific rate, or set locally?
Should the Infrastructure Levy proposals be enacted, Mid Sussex believes that the rate should be set nationally, however it should be a locally (area-specific) rate.

The proposal contained in the White Paper to have a national rate for the Infrastructure Levy seems to have generated a lot of confusion as to how a single rate can be applied to all areas in England, where areas have shown to have such significant difference in viability.

The levy will need to be set to deliver affordable housing and infrastructure whilst ensuring viability, if the rates are set too low it won't be possible to deliver all the infrastructure and affordable housing required, but as the rate increases more and more development sites would be sterilised because there is no viability process to act as a safety valve. The sites which would be sterilised would also be the complex brownfield sites near existing infrastructure, without these sites more greenfield land, where the uplift is generally much larger, will need to be developed. As a result, development will flow to where it is possible, not to where it is needed or most suitable.

If the rates are to be expressed in currency, the levy should be set locally to ensure that the rate is best suited to each area. In order to maximise revenue, charging authorities should be encouraged to include a variety of rates as opposed to the current approach to CIL which requires above all simplicity. Although the intention of this approach is understood, it also pushes charging authorities to settle for the lowest common denominator rather than set a tariff with greater chance to deliver much needed infrastructure.

If the rates are to be expressed as a percentage of the sale value, a national approach is likely to be more acceptable as well as speeding up the beginning of the implementation of the levy. However, it is thought that there would be value in considering having the threshold established locally, or at the very least provide a formula so that each charging authority can have its own threshold or thresholds.

Based on the above, if introduced our preferred approach would be for the infrastructure Levy to be set nationally with a minimum of 2 area specific rates set for each Local Authority area, at the very least for housing development. One rate should be for greenfield land and the other for brownfield land, in order to try to capture the differing viability positions of each. The rates should be set high enough to ensure increased affordable housing delivery with at least 75% ring fenced for Affordable Housing. Otherwise affordable housing provision would have to compete against other essentials such as school, transport and health provision and delivery would not be able to be maintained even at current levels. The rates set should capture the uplift in the value of the land through the granting of planning consent, in the specific Local Authority area in which the land is situated.

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?
The consultation states that the government wants to deliver at least as much affordable housing as before by capturing more of the uplift in land value created by the grant of consent. Indeed, the aim must be to capture more value in order to increase the delivery of affordable housing.

Although the Council has a number of **concerns** over the Infrastructure Levy proposal, it is more likely to endorse an approach which can capture more value to support greater investment in infrastructure, affordable housing and local communities. However, there is no information on how future rates are likely to be set and the levy calculated, and therefore the Council cannot comment on whether the proposed levy will actually be generating more revenue than the current developer contribution arrangements in place in Mid Sussex.

22(d). Should we allow local authorities to borrow against the Infrastructure Levy, to support infrastructure delivery in their area?
The Infrastructure Levy should not be paid in full on occupation but in 2 tranches - 50% at start on site and 50% on occupation. This would make it easier for the prevention of occupation to be used as a potential sanction for non-payment. Local Authorities should not be able to borrow against the levy because although it would allow them to forward fund enabling infrastructure to help ensure developments could be completed faster, it would add to their financing commitments (whilst reducing those of developers). Interest charges would also not be recoverable and there would be no guarantee that payments would be forthcoming on time, which may mean that other services have to be cut to pay back loans.

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

23. Do you agree that the scope of the reformed Infrastructure Levy should capture changes of use through permitted development rights? Yes
There should be no exemptions to the payment of the levy, apart from self and custom build, to ensure that all development contributes to the provision of affordable housing and other infrastructure. It should therefore be paid in full on all changes of use through Permitted Development rights, to make such developments more acceptable to both local authorities and communities.

It is considered that no implicit (i.e. discount through demolition or existing use) or explicit exemptions should be introduced in the new Infrastructure Levy, where viability allows, to ensure that all developments appropriately mitigate their impact on the local infrastructure and support the development of affordable housing across the district.

The intention behind the inclusion of relief such as extension relief and self-build relief is understood, but it also contradicts the developer contributions principle to raised funds to help deliver infrastructure to support local communities. Although some developments would have minimal impacts individually, small development can have a significant impact cumulatively and should be making a contribution towards infrastructure provision. Should the government wish to offer some form of relief, a level of discount could be explored.

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

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?

Affordable housing provision under the Infrastructure Levy should be kept at least at current levels and should ideally be increased in line with government intentions. The Council has concerns about how many affordable rented housing units will be delivered through the new planning system. It is also essential that affordable housing is provided on site in order to ensure that all new development continues to deliver mixed and sustainable communities and that affordable housing is delivered as quickly as possible.

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?

Affordable housing, both rented and First Homes, should continue to be provided on site at cost price, with the discount representing an in-kind equivalent infrastructure levy payment, in order to ensure that all new development continues to deliver mixed and sustainable communities and that affordable housing is delivered as quickly as possible. The size and type of affordable housing to be provided on a development should be determined by the current housing need for the parish taken from the Council's waiting list. The amount (even if based on a square metre equivalent) should be at least equal to the Local Authority's current numerical requirement eg a minimum of 30% on schemes over 10 units. It is also important that the amount agreed is not reduced even if the final levy liability reduces, in order to provide confidence that this mechanism will actually result in the same or more on-site affordable housing than at present.

The affordable units will also need to be distributed throughout the site in clusters of no more than 10 affordable units with open market units in between, in order to aid social integration and the provision of mixed and sustainable communities, and all units will also need to be tenure blind. 75% should be provided for affordable / social rent and a maximum of 25% for First Homes.

The Local Authority should also be able to identify 3 Registered Provider's plus itself as the possible recipients of the affordable housing units on all sites, rather than being required to identify a single nominated Registered Provider. The recipient Registered Provider/LA should also be agreed for each site before works commence, together with the particular units to be transferred which should not just be chosen by the developer. This will increase the certainty of the delivery of the correct size and type of affordable housing required in suitable locations across the site. Local Authorities should also be able to accept Infrastructure levy equivalent payments in the form of land, within or adjacent to the site, and to build the land out themselves or via a partner Registered Provider.

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

If the value secured through in-kind on site units is greater than the final levy liability then it is important that the developer has no right to ''flip'' a proportion of affordable units back to open market units to reclaim overpayments. If this is not the case levels of on-site affordable housing delivery will be unable to be maintained even at current levels and Registered Providers may be unwilling to commit to take on units. Government must also make sure that Local Authorities / RP's are not required to over pay for in kind units.

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?

It is essential that the quality of affordable housing provided is maintained as well as its quantity. The Registered Provider /LA recipient should be agreed before works start on site so that they can oversee the build process and ensure that the quality of the resultant affordable housing. Also, if no Registered provider is willing to buy the homes due to concerns regarding their quality, the Local Authority should have the option to receive a financial payment instead.

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

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

The reduction to restrictions as to how charging authorities can spend the Infrastructure Levy income to include affordable housing would be welcomed. However, the Council does not support the use of the Infrastructure Levy for other purposes than infrastructure and affordable housing provision.

To increase transparency and certainty, the identification of projects and priorities is considered key for all organisations involved in the spending of the levy.

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

This Council supports the proposal that an affordable housing 'ring fence' should be developed, since it will be essential that at least 70% of the Infrastructure Levy funding is reserved to ensure that the delivery of affordable housing at current levels as a minimum is maintained.

The level of levy to be ring fenced for affordable housing and/or delivered on-site should be established from the outset (locally) to increase certainty on affordable housing provision and avoid lengthy negotiation developers.

Delivering Change

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

This Council strongly agrees that the cost of operating the new planning system should be principally funded by the beneficiaries of planning gain, landowners and developers, rather than local taxpayers. Proposals to set a national fee which would support these costs is therefore welcomed.

Although the cost of the development management service is to some extent covered by the planning application fee the cost of preparing Plans and enforcement is currently funded by local tax payers. Plan making (including the costs of professional planning staff, consultation materials, preparation of technical evidence, legal fees and the Planning Inspection) is extremely costly.

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

This Council **supports** the principle of a strengthened and emboldened planning enforcement system and is particularly pleased this element of the planning discipline is featured in the White Paper.

This Council believes that without rigorous and sound enforcement the effort, aims and policies of local development plans and decisions of an LPA can be undermined and that public confidence in the planning system and its role in creating better, safer and more sustainable places can be eroded.

The intention in the White Paper is welcomed but lacks detail for considered and informed comment to take place. It is not clear whether it is intended to replace the contents of the 1990 T&CPA or alter the system considerably to a 'rules-based system'. However, reforms which help speed up the enforcement process would be welcomed. Currently the process and issuing of Notices for breaches of planning control is lengthy and time consuming, especially in relation to the various appeals open to recipients of enforcement notices and reform of the enforcement process to resemble with other forms of legislation, such an Environmental Protection legislation, with appeals on some grounds solely to courts would be an improvement.

The white paper appears to suggest a wider remit for planning investigation and enforcement which may **be welcomed in principle** providing it is adequately resourced. It would appear that it is intended to fund the enforcement function through developer contributions, placing it at risk of competing against other infrastructure and adequate funding would be dependent on development actually being delivered. This proposal is therefore **not supported**.

The principle of enforcement taking a pro-active role in the planning system, rather than solely reactive is welcomed but without further detail cannot be commented upon further.

The addition of further powers and increased penalties is also welcomed but should not be seen as a potential cure to increasing the efficiency or expediency of action. Magistrates are already reluctant to impose financial penalties at the upper ends of the standard scales, and rarely is the financial penalty either a deterrent to offenders or sufficient to prevent unlawful development. It is also the case that financial penalties may sometimes provide a hinderance to resolving or remedying breaches when the funds would be better directed at remedying the breach rather than paying fines.

Equalities Impacts

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

The intention to make the system of engagement in planning more accessible, accountable, digital and transparent **is welcomed**. Care needs to be taken however to ensure that in promoting greater use of digital communication, including methods to facilitate the greater use of smartphones, those who prefer more traditional forms of engagement are still catered for. This includes older people who do not have access to digital communication or prefer not to use it.