

PLANNING FOR THE FUTURE: WHITE PAPER DRAFT CHESHIRE EAST COUNCIL RESPONSE



Summary of Proposals:

The proposed changes put forward in the governments Planning for the Future White Paper represent a very significant re-modelling of the planning system which will fundamentally change the way that local plans and individual planning decisions are made.

The core aims of the reforms are to speed up the planning system, secure delivery of 300,000 homes per year and drive a more joined-up national approach through a focus on digital information.

There are many important and significant proposals being put forward and a more detailed response on individual matters within the White Paper is presented at Appendix 1 but at its core, the White Paper seeks to make the planning system more responsive and efficient primarily by:

1. Re-focusing public engagement away from the planning application stage to the development of the local plan.
2. Changing the way local plans are written, focusing on clear development standards rather than local plan policies (that rely more heavily on the exercise of planning judgement).
3. Defining three development zones within local plans: growth zones (areas for significant new development); renewal zones (existing developed areas) protection zones (areas of heritage, countryside, green belt, national parks etc).
4. Speeding up the development process by ensuring that land allocated as a growth zone will benefit from outline planning permission on the adoption of the local plan, with any reserved matters to be dealt with primarily by professionals.
5. Speeding up the production of local plans through reducing and removing the evidential burden placed on plan making and significantly reducing the scope to write local development management policies. Housing targets will be established nationally, taking into account local constraints; the duty to co-operate will be removed; the approach to sustainability appraisal and environmental impact assessments will be revised and reduced; and most development management policies will be established at a national level. The reduced plan-making burden is expected to speed-up the process and there will be a statutory requirement to produce plans within 30 months.
6. Creating a focus on quicker consent routes for good design, supported by local design codes (either within the local plan or through the neighbourhood planning process).
7. Replacement of S106 and CIL with an 'Infrastructure Levy' that authorities can spend widely and lend against.

The proposals represent some fundamental changes to the system but rest on existing concepts that are already well understood – the concept of local plans; outline planning permission; and public engagement.

Inevitably, at this first stage of consultation, much of the detail of how the proposals will work in practice is yet to be presented therefore the response given here is subject to such detail.

General Comments

The planning system as an indispensable tool to co-ordinate and shape the built environment toward positive spatial goals that support communities to thrive, secure infrastructure and increasingly will be used to improve the natural environment and mitigate, and reduce, the impacts of climate change.

A clearer understanding of how the current proposals will be resourced is important. Measures that will make the planning system more simple, efficient and quicker are welcome and to deliver these benefits local authorities must be appropriately resourced. Reducing the evidential burden in local plan preparation will help authorities achieve the 30 month time-frame for plan production but all authorities are different and for large unitaries such as Cheshire East, the volume of information required at plan making stage will inevitably be larger than for smaller councils, with an implication in regards the staff resource required. Under the current system application fees support the staff resource required to process applications and in the current proposals there is no reference to how this arrangement may be altered in the future. Some mechanism must be introduced to ensure fees from planning applications are set appropriately and support both plan-making and determination of other planning applications.

Many of the tests included in the current local plan process are onerous and often do not secure the outcome that they were originally designed to achieve. Therefore it is welcome that the role of the duty to co-operate, sustainability appraisal and environmental impact assessments are under review. To ensure local plans do fully address the impact of development on the environment and do not conflict with the ambitions of neighbouring authorities and beyond, removing these tests entirely may be counterproductive to achieving sustainable development on a larger than local basis. Aside from reference to 'joint plans' the current proposals make little reference to how authorities in a geographic or city regions may be required to demonstrate how their plan will support delivery of a wider strategic goal.

Other parts of the current local plan process that are being removed may also yield benefits but further detail on the approach is needed to inform a position. Many development management issues are similar across the country and there is much scope to rely on a nationalised version of development management policies/standards. However, each locality is different and there is legitimately a case for local authorities to retain the ability to introduce specific development management measures in response to local circumstances.

Local plan housing debates are always framed by the question of ‘how much and where?’ If the ‘where’ is reserved for the local planning authority and the ‘how much’ is taken out of local debate and established nationally, much time can be saved in the plan-making process. However, the relevant factors that inform the national approach are not set out clearly at this stage other than to reference that local constraints will be considered alongside housing affordability when establishing an areas requirement.

It would be helpful to understand the range of indicators that will be used to inform national distribution of housing and whilst housing affordability is an important indicator of demand in an area, demand can shift (and be created through strategic policy) and an approach that relies too heavily on indicators of affordability may hold back authorities (and regions) that wish to instigate strategic growth plans based on new infrastructure and employment investment beyond their own borders.

The white paper includes a lot of positive ambitions but, overall, what it is proposing to take away from the current system is significant; and without assurance that what is lost will be sufficiently mitigated for, it’s difficult to lend it open support. Most importantly, for LPAs to deliver the proposals they must be fully resourced and through the infrastructure levy, must be able to capture at least the same uplift in land value as is possible now (arguably a new system should capture more). If LPAs are not resourced to deliver it, and cannot secure the right resources from it, the proposed system will not achieve its ambitions.

Finally, planning is an art based on science and a fundamental concept within the current system is the exercise of planning judgement - the interpretation of planning policy by professional decision makers in response to the often unique circumstances of each development site. The current proposals to speed-up the system are a move toward science and data but must reserve room for planning judgement. In particular, in a shift toward a process that relies more heavily on demonstrating compliance with definitive and clear rules, local authorities must have the ability to ensure that development does deliver positive outcomes, including better design and environmental improvements. Hence, local authorities must be fully resourced to deliver improvements to the system and also to enforce against development that does not comply with a clear set of rules set out at the consent stage.

Because of the lack of detail, worked examples or specific mechanisms that will be used to calculate things like housing requirement and infrastructure levy receipts; and without any real detail on how the reduced democratic oversight will be enhanced through the LP process, it’s very difficult to reach a strong view on a lot of it. There are serious concerns over how transparent and democratically accountable the proposed system could be and whilst reducing the evidential burden may be entirely reasonable in terms of its proportionality, there’s no reassurance as to how fundamental issues around the environment in particular will be accounted for in plan preparation. Very significantly the removal of the duty to co-operate (without an alternative mechanism being proposed) leaves us wondering how authorities will be required to demonstrate cross boundary co-operation on a range of issues from

infrastructure planning, growth strategies and environmental issues (particularly in regard to flooding).

Q1: What three words do you associate most with the planning system in England?

Answer: Essential, regulatory, positive

Additional statement: n/a

Q2 (a): Do you get involved with planning decisions in your local area? [Yes / No]

Answer: Yes

Additional statement: n/a

Q2(b): If no, why not? [Don't know how to / It takes too long / It's too complicated / I don't care / Other – please specify]

Answer: n/a

Additional statement: n/a

Q3: 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]

Answer: Social media; online news; other - direct email/text message etc

Additional statement: n/a

Many councils already employ digital services to consult on and promote their planning functions. We agree that a greater focus on digital services will make planning matters more accessible to the general public but there remains a need to engage in non-digital ways to ensure all sectors of our communities are able to participate. A proportion of the population still do not use or have access to the internet, for example, in 2019, 7.5% of adults had never used the internet and, and some groups with protected characteristics are less likely to access digital services than others (notably women, older age groups and disabled people). There is therefore a need to ensure that groups are not excluded from participation on the basis of not using computers / 'smartphones' or accessing the internet.

(<https://www.ons.gov.uk/businessindustryandtrade/itandinternetindustry/bulletins/internetusers/2019>)

A move which focuses more on digital information will have benefits and local authorities must be appropriately resourced to deliver new processes and systems should there be new requirements that mean consistency/linkages with other national digital systems that are not currently in place. The creation of new software to manage planning matters will require a significant financial investment and whilst LPAs are currently using digital services extensively, for the wide variety of local

systems to talk to one another efficiently it will require investment which local authorities by and large do not have the current resources to deliver.

Q4: 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]

Answer: The environment, biodiversity and action on climate change; Supporting the local economy; / More or better local infrastructure. All of the above are important and valuable, ranking these issues does not reflect the value of each.

Additional statement: n/a

Q5: Do you agree that Local Plans should be simplified in line with our proposals? [Yes / No / Not sure. Please provide supporting statement.]

Answer: Not sure

Additional statement:

Simplification of the Local Plan process is an admirable ambition and the shift towards looking at outcomes rather than process is to be welcomed. Some of the objectives being sought could be achieved through national intervention, such as mandated standards through building regulations and environmental protection legislation, which would alleviate the pressure on the planning system to control matters (usually through conditions) better dealt with under alternative arrangements.

The proposed zoning approach is similar to existing plan making however given the complexity of different land use types some mechanism should be retained to subdivide the defined zones, for example exempting areas from permitted development rights that may otherwise fall into a zone which is permissive. Some degree of granularity is needed to successfully manage development in this proposed approach.

The exercise of planning judgement has been a fundamental feature of the planning system for decades and reflects the need to treat individual sites on their own merits. No two sites are the same and the impact of development is always different – hence the need to exercise a judgement on important issues arising from planning decision. Clearer rules are always helpful but flexibility to respond to the unique circumstances of each site will remain important in any future system.

Of the alternatives proposed, alternative one is not supported and offers little means to control development that otherwise be harmful. Alternative option two, is our preferred approach a substantial role for the development management function that is more likely to reduce potential harmful effects of development that might otherwise occur under an extended permitted development regime.

Q6: Do you agree with our proposals for streamlining the development management content of Local Plans, and setting out general development management policies nationally? [Yes / No / Not sure. Please provide supporting statement.]

Answer: Yes

Additional statement:

Creating a national suite of development management policies that align to the proposed zones would improve national consistency and reduce the scope of plan-making, therefore improving the efficiency of that process. However, it remains important for LPAs to be able to establish localised policies that respond to the specific circumstances of the local area, in specific circumstances (such as for conservation areas).

The proposed alternative option would require a far more extensive local process and has the potential to create a complicated monitoring system to consider which sites should be brought forward and when (outside of the defined local plan process). Retaining the tests of deliverability are preferred, the current process in this regard may be improved increasing the emphasis on site promoters to provide consistent and accurate information on the deliverability of their sites. Local authorities cannot control the deliverability of third party sites and under the alternative option, it is difficult to understand how site promoters would be incentivised to deliver – would they lose permission (and be forced to wait for the next local plan process) if a site is not built out by a specified time? Without the detail of the mechanisms through which reserve sites would be required to come forward it is difficult to support this alternative proposal.

Q7(a): Do you agree with our proposals to replace existing legal and policy tests for Local Plans with a consolidated test of “sustainable development”, which would include consideration of environmental impact? [Yes / No / Not sure. Please provide supporting statement.]

Answer: Yes

Additional statement:

To make this work, each site submission must include clear information, presented in a consistent format that enables the local authority to assess the ability of a site to meet the new sustainability tests. Such a test should include a measure of reliance on/ability to provide relevant infrastructure and an assessment of the deliverability and viability of the site. Standardised tests would be welcome on this matter but should recognise that each site is different and allow for adjustments to be made outside of any standardised approach. Any replacement tests must include sufficient analysis of cross boundary matters related to the environment, and in particular, to flooding which is a complex matter that requires co-operation beyond administrative boundaries.

Q7(b): How could strategic, cross-boundary issues be best planned for in the absence of a formal Duty to Cooperate?

Additional statement:

Some form of national and or regional strategic plan would enable LPAs to align to the larger than local issues that inevitably arise through the local plan process. This could provide a framework for LPAs, setting out national and regional development priorities, infrastructure development and cross boundary matters such as commuter flows and environmental issues such as flooding.

Q8 (a): Do you agree that a standard method for establishing housing requirements (that takes into account constraints) should be introduced? [Yes / No / Not sure.

Answer: Not sure

Additional statement:

The national setting of housing requirement is a blunt instrument but would remove a large part of the discourse at local plan examinations and therefore be an important component of ensuring plans could be prepared within 30months. In establishing housing requirements it will remain important to consider the role of commuting patterns, employment, and retail planning and the effects of this on increasing or depressing housing need in the local area.

Housing need is disaggregated in subcategories and therefore it is important to be clear whether this will also be undertaken nationally or reserved for local planning authorities to deliberate on. For example, how would the approach to gypsies and travellers, travelling show people, older people and affordable housing / starter homes be addressed?

To avoid lobbying, bias and the politicisation of this issue, any national system of distributing housing need must be fully transparent and it is also important to understand what mechanism will exist to deliver residual housing need that cannot be accommodated by local authorities in constrained locations. Will the need here simply be re-apportioned to the nearest unconstrained local authority? OR perhaps inform the approach to new settlements through the NSIPs regime?

The proposed alternative option is very similar to the existing process and, in the context of introducing a statutory time scale of 30 months within which to prepare a local plan, would force the substantial local debate into a shortened timeframe. Retaining this approach, and introducing a 30 month time limit to prepare plans would likely mean that many authorities would fail the new statutory test being considered.

Q8(b): Do you agree that affordability and the extent of existing urban areas are appropriate indicators of the quantity of development to be accommodated? [Yes / No / Not sure. Please provide supporting statement.]

Answer: No

Additional statement:

There are multiple other factors to consider when establishing housing need and proceeding on this basis will continue to focus investment in already successful places. The suggested approach does not account for longer term strategic change that may be brought about by ambitious local plans and will inevitably result in an intensification of development around existing areas that are considered successful rather than the 'levelling up' of towns and regions that have faced years of under funding from central government and need support from both ambitious policies and plans but also from infrastructure funding to deliver their full potential.

Q9(a): Do you agree that there should be automatic outline permission for areas for substantial development (Growth areas) with faster routes for detailed consent? [Yes / No / Not sure. Please provide supporting statement.]

Answer: Not sure

Additional statement:

Democratic oversight and community input into planning decisions is a key feature of the planning system since its inception and must be retained. The proposal offers efficiencies, but this must not be at the expense of local community ability to input, shape and determine the development of an area. Without sight of the mechanisms that will be introduced to ensure democratic oversight is retained, it is difficult to support this proposal in principle.

If sufficiently meaningful community input is retained, then the approach does offer efficiencies but LPAs must be given sufficient time/resources to investigate sites to an extent equivalent to an outline permission. Clear guidance would also be required as to whether local authorities could charge land promoters through the local plan process (perhaps through planning performance agreements) to ensure appropriate resourcing of the system and that appropriate engagement is achieved. Authorities would also need very clear guidance on the level of information required to support the establishment of growth areas, and the sites they were comprised of, so that the process does not become 'over engineered' in order to minimise risk of future legal challenge.

Q9(b): Do you agree with our proposals above for the consent arrangements for Renewal and Protected areas? [Yes / No / Not sure. Please provide supporting statement.]

Answer: Yes

Additional statement:

The approach set out is similar to that already in place, in that within an existing developed area, the presumption is generally in favour of development. Reference to small sites in rural areas, within or on the edge of settlements is concerning. If a presumption in favour of development existed for undefined sites at the edge of villages this would potentially undermine the clarity brought by zoning.

Q9(c): Do you think there is a case for allowing new settlements to be brought forward under the Nationally Significant Infrastructure Projects regime? [Yes / No / Not sure. Please provide supporting statement.]

Answer: Yes

Additional statement:

This approach would support the delivery of housing to meet the national need and would help to accommodate the residual need that cannot be hosted by local planning authorities with significant environmental or other constraints in their land supply. A key concern is the mechanism and process to bring about new settlements and the level of involvement that host local authorities and local communities can expect to be involved. Transparency of approach is essential to create a fair delivery mechanism and assist local planning authorities to manage development and the effects of such decisions on their own plan-making.

Q10: Do you agree with our proposals to make decision-making faster and more certain? [Yes / No / Not sure. Please provide supporting statement.]

Answer: Not sure

Additional statement:

The increased reliance on digitally standardised processes is welcome and will help improve consistency of approach across the planning system.

Negotiations take time and LPAs should not be punished for delays that they cannot control across the multiple parties involved in the process. The punitive measures proposed to be placed on local authorities are unfair and assume that delays are the fault of local planning authorities alone. This is not the case. LPAs may have a very good reason for not determining an application in time, for example because of a prolonged need to engage with a developer on specific issues or a developer being unable to secure agreement with their client. There is also a requirement for applicants to submit correct information upfront, if this does not happen or pre-application advice is not sought which results in changes to applications once submitted, it is not the fault of the local authority that a delay has been introduced. It is therefore important to be clear on what type of application such measures would apply to, and to retain appropriate mechanisms that allow delays to the process to be agreed by all parties.

Under current arrangements, there is a clear conflict between 'working with an applicant to help gain approval' (which takes time) and targets in regard to timely decision making. A mandatory pre-application process may help identify and resolve many issues that only come to light once an application is submitted but simply introducing a deemed consent approach where applications are not determined within a defined time frame is likely to result in poor decision making. The proposed rebate of planning application fees will incentivise applicants to appeal, if this is introduced local authorities should be similarly re-imbursed where a refusal is upheld (perhaps through the automatic application of costs). This seems a measure to

punish local authorities where they refuse applications, which may well be based on perfectly legitimate grounds.

Q11: Do you agree with our proposals for accessible, web-based Local Plans? [Yes / No / Not sure. Please provide supporting statement.]

Answer: Yes

Additional statement:

To ensure standardisation between different authorities there will need to be clear guidance on standards for the web-based infrastructure used. Standardisation and compatibility across local authorities would offer significant efficiencies and detailed pilot schemes will need to be employed to test approaches prior to roll-out. The resource required to implement a vast and nation wide digital plan making system must not be underestimated and if local authorities are to have a role in implementing such a system, it has to be recognised that additional resources will be needed beyond what is available now.

Q12: Do you agree with our proposals for a 30 month statutory timescale for the production of Local Plans? [Yes / No / Not sure. Please provide supporting statement.]

Answer: No

Additional statement:

There is insufficient detail provided to offer support for this proposal. The broad approach appears to be to narrow the scope of plan making, reduce the evidential burden and reduce the local / democratic oversight. What is proposed is a shrinking of the current system, understandably to try and focus on its core purpose. However, it is important to be aware of what could be lost in this trade-off and without any assurance that the measures being taken away will be meaningfully and proportionally replaced, it is impossible to support his proposal.

In addition, each local authority area is different in size and the scope of plan making required, which means each area will need to tackle a different range of planning matters, and take variable time in doing so. If a 30month timescale is introduced the obligations on plan making must be reduced and LPAs must be sufficiently resourced to meet this requirement. The resource required must not be underestimated – in a large unitary authority a call for sites and assessment of such sites on the basis of granting outline planning permission through growth zones, is a huge undertaking requiring a review of hundreds of development options. If a plan making process is to be carried out that delivers genuine sustainable development, the assessment methodology of sites must be rigorous and be completed over an appropriate timeframe that ensures full due diligence is undertaken. The time and test necessary to ensure cross boundary co-operation must also be recognised – important matters such as flooding must be fully considered in the plan making process and inform site selection and the overall plan strategy; there remains a need

for larger than local discussion on important matters that should not be lost and should be curtailed by a unnecessarily restrictive timeframe.

Local plans are the backbone of an areas development and economy and the processes, checks and balances, and public scrutiny are purposefully built into the system to secure positive outcomes.

Some of the processes required by local planning legislation have evolved to be onerous and the outcomes they generate are perhaps no longer proportionate to the resources needed to prepare them, however they exist for good reason and without detailed assurance that the meaningful alternatives will be implemented in any new system, it is not possible to support the proposals as they stand.

Alternative option one would likely create significant challenges for inspectors in managing requests to be heard, and in applying discretion, may result in perception of unfairness and even legal challenge. Picking and choosing who gets to speak will inevitably lead to disagreement and could potentially undermine the process.

Alternative option two would require a different type of resource for local authorities and would potentially result in each local authority holding their own form of informal examination process to conclude a local plan, but with no recourse to an independent and external adjudicator. Inevitably, local plans that do not satisfy stakeholders, will be subject to a variety of challenge aimed at the local authority itself and perhaps through the courts. The independent testing of local plans is a cornerstone of the planning system and brings with it national consistency and a means to definitively resolve problematic issues. Any future system should retain this means to properly arbitrate interests.

Q13(a): Do you agree that Neighbourhood Plans should be retained in the reformed planning system? [Yes / No / Not sure. Please provide supporting statement.]

Answer: Yes

Additional statement:

Neighbourhood plans have the potential to ensure local communities are able to meaningfully input into the planning system and can be an important vehicle to help communities shape development in their areas. The vast majority of neighbourhood plans successfully pass their referendum and consideration should be given to this process including a review of the circumstances under which a referendum is necessary. For example there is a case to be made that plans which are largely uncontentious and do not allocate development sites should not be subject to a referendum. Instead an enhanced test related to their preparation, in regard to ensuring that a representative cross-section of the area has been involved in preparing the plan, could be employed.

Q13 (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?

Answer: n/a

Additional statement:

Currently neighbourhood plans have a wide scope and are produced in a style and format determined by each qualifying body. There is a case to be made for some standardisation of plans that would reduce the burden on qualifying bodies and simplify this tier of plan making, ensuring consistency across the country. Standardisation of scope and style would offer opportunities to improve the digital services that can be used to prepare plans and engage communities on their preparation.

Neighbourhood plans are already a very useful tool to establish design preferences at a very local level and this can be built on to ensure that design codes become a fundamental component of this tier of plan-making. However, introducing plans at the geography of a single street would increase the complexity of local plans and if this is to be introduced, the scope within which such micro plans could be prepared must be very clearly defined in regulations. This approach may be appropriate in areas already defined in local plans (conservation areas for example) but defining new, small boundaries is likely to be resource intensive, problematic and difficult to secure buy-in from all residents in a small area.

Q14: Do you agree there should be a stronger emphasis on the build out of developments? And if so, what further measures would you support? [Yes / No / Not sure. Please provide supporting statement.]

Answer:

Additional statement:

Yes, planning is an important enabling process but the market determines build out of developments. If the Consolidated Infrastructure Levy is brought in to apply on the completion of development then measures to support build out will be important.

Q15: 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]

Answer: Other

Additional statement:

Cheshire East is a very large area with a wide variety of design typologies and quality. We host examples of exceptional design and that which is unremarkable, could be better, but is found acceptable in planning terms. To secure better design local authorities need sufficient resources, stronger national policy and a recognition that the parameters of viability testing are often the reason that better outcomes are not secured.

Q16: 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]

Answer: More green and open spaces
Energy efficiency of new buildings

Additional statement:

In terms of energy efficiency, the planning system is a limited tool and much more emphasis must be given to the building regulations regime that can ensure compliance with higher standards than can be secured through the planning system.

Q17: Do you agree with our proposals for improving the production and use of design guides and codes? [Yes / No / Not sure. Please provide supporting statement.]

Answer: Not sure

Additional statement:

Design codes can be a useful tool to efficiently secure appropriate design. The best codes employ a degree of flexibility to ensure site specific response can be implemented. As proposed, a lot of design codes may need to be included upfront with the Local Plan and its allocations, especially in growth zones. This approach would have a significant resource implication, and local authorities must be sufficiently resourced to deliver this ambition.

Q18: Do you agree that we should establish a new body to support design coding and building better places, and that each authority should have a chief officer for design and place-making? [Yes / No / Not sure. Please provide supporting statement.]

Answer: Not sure

Additional statement:

If design codes are introduced as described, clear guidance and support across the industry will be needed to secure a positive impact and therefore a body that champions design and actively supports authorities and builders to deliver good design, would be positive.

The creation of statutory role in local authorities would elevate design as a consideration but it is important to understand how such a role is defined and how it would sit alongside existing equivalent chief planning officer roles – would this be a role that would become part of a chief planning officers role for example? Without clarity on what this role might entail and what responsibilities it would discharge, it is not possible to support the proposal. Any obligation for a local authority to employ a statutory role such as this must be reflected in the resources made available from government to create the role.

Q19: Do you agree with our proposal to consider how design might be given greater emphasis in the strategic objectives for Homes England? [Yes / No / Not sure. Please provide supporting statement.]

Answer: Yes

Additional statement:

As the government's primary agent for the delivery of new homes, it would be appropriate for the agency to align to government ambitions to improve design quality and set a high quality standard.

Q20: Do you agree with our proposals for implementing a fast-track for beauty? [Yes / No / Not sure. Please provide supporting statement.]

Answer: Not sure

Additional statement:

An over-reliance on permitted development ignores the complexities of individual sites and can result in poor quality development. Without the detail of how such an approach would be implemented it is not possible to support the proposal. IT is necessary to provide assurance that the assessment requirements that local authorities will be required to undertake are appropriately resourced (will this route require any review by the LPA, and if so what it is the scope for that assessment?) and it is vital that LPA are empowered and resourced properly to enforce against development that has been delivered under this arrangement, but which does not live up to the requirements of design codes. IF there is to be a move toward more deemed consent routes, the loss of oversight at the consent stage should be balanced by an increased emphasis on enforcement against poor development that does not deliver as expected.

Q21: 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]

**Answer: More or better infrastructure
Design of new buildings
Green Space**

Additional statement:

Whatever approach to development is taken, it must be joined up to create a place where housing, employment and services complement each other to reduce travel times, promote walking and cycling and enhance the environment

Q22(a) : Should the Government replace the Community Infrastructure Levy and Section 106 planning obligations with a new consolidated Infrastructure

Levy, which is charged as a fixed proportion of development value above a set threshold? [Yes / No / Not sure. Please provide supporting statement.]

Answer: Not sure

Additional statement:

Recent experience of the Infrastructure Levy suggests that in poorer areas where viability is an issue there may not be any money generated and the irony of this is that these are the places where improvements are required. S106 can become complicated as parties struggle to agree on terms and at least superficially it would seem to offer a certain degree of efficiency to consolidate the two mechanisms. However, without the detail of how this proposal would work including the factors that would be taken into account in setting the rates, it is not possible to support the proposal at this time. More detail is required, including worked examples to demonstrate that local authority funding that is secured through the existing mechanisms, is not reduced, especially in regard to the provision of affordable housing, primarily secured through S106.

The idea of a 'standard rate' could be considered a blunt instrument and not reflective of local market conditions. There is a risk that authorities end up with a low rate that is insufficient to meet infrastructure (including Affordable Housing) needs and requirements. In addition, because of the wider purposes it can be spent on could lead to a dilution of spend or infrastructure not paying for the need created by development.

The relatively simple concept of CIL has seen a proliferation of exemptions and rule amendments over time which has led to an overly complicated system, care must be taken to ensure that any new system does not suffer the same fate.

Q22(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]

Answer: Nationally at an area-specific rate

Land values and development costs vary significantly across the country and therefore a mechanism that levies contributions to infrastructure and other planning obligations must be responsive to local conditions. Even if set nationally and adjusted locally, it may still be necessary to build in a mechanism that allows local authorities to adjust the approach in their own area, related to their local objectives.

Additional statement:

Q22(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.]

Answer: More value

Additional statement:

In making changes to the current s106 and CIL framework it is essential that local authorities secure at least the same amount of funding that is brought forward now. These mechanisms are a vital part of the funding stream that secures and delivers physical and community infrastructure and a lot of services that are highly valued by communities are provided this way including highways, schools, green and recreation spaces, and affordable housing. There is an appetite for more investment in all of these essential community services and any reducing in the ability of local authorities to provide them cannot be supported, however proposals that simplify the existing s106 and CIL mechanisms are welcome, especially where consistency and compliance can be emphasized.

There seems little advantage to introducing option 2, which appears simply as a means to force local authorities to adopt the infrastructure levy by removing the ability to apply S106 (only meaningful reason not to adopt the infrastructure levy). However, the ability to set local rates would offer flexibility to authorities, which is positive to support delivery.

To make alternative option two work, the tests of viability would need to be changed in order for the infrastructure levy to be made an absolute requirement, that is not adjustable or negotiable. Instead the sale of developed land would presumably then need to reflect the added cost of paying the infrastructure levy. The benefits of this approach would be to fully deliver infrastructure, but it may have the unintended consequence of either a) forcing a local authority to reduce the scope and ambition of its proposed infrastructure to ensure sites are deliverable or further increasing the cost of housing as land owners recoup their costs.

Q22(d): Should we allow local authorities to borrow against the Infrastructure Levy, to support infrastructure delivery in their area? [Yes / No / Not sure. Please provide supporting statement.]

Answer: Yes

Additional statement:

In principle, borrowing against future infrastructure levy receipts would enable local authorities to play a greater role in infrastructure delivery but may expose local authorities to financial risk where they are reliant upon development that does not come forward. Very clear guidance and legislation should be put in place that ensures that local authorities can support growth and development through infrastructure provision, whilst at the same time, anticipates and insulates against potential risk of doing so.

Q23: Do you agree that the scope of the reformed Infrastructure Levy should capture changes of use through permitted development rights? [Yes / No / Not sure. Please provide supporting statement.]

Answer: Yes

Additional statement:

Especially in a system that enables additional permitted development to take place through a zoning approach, it is essentially that sizeable development (over a minimum threshold of floorspace) contributes to the impacts of that development. Rates should be set at different values depending on the change of use/development and to reflect the impacts of that type of development. For example, should an office building be converted into residential development, the impact on highways, schools and green space needs (amongst others) are potentially considerable and without an appropriately set levy, a funding gap is likely to emerge, ultimately leading to an under provision of services to meet the demands of the new development.

Q24(a): Do you agree that we should aim to secure at least the same amount of affordable housing under the Infrastructure Levy, and as much on-site affordable provision, as at present? [Yes / No / Not sure. Please provide supporting statement.]

Answer: Yes

Additional statement:

Yes, at least the same amount of Affordable Housing should be captured via the levy. Re: on-site Affordable Housing, this could be circumstantial – for the majority of sites, on-site is preferred, however it would be ideal to have the ability to be more prescriptive in types of Affordable Housing. For example, a reduced on-site provision, but with greater prevalence of bungalows, larger family accommodation, single-person accommodation. A mechanism to allow local flexibility, even at site specific geographies, would be beneficial and whilst the levy should secure at least the same provision of affordable housing as S106 does now, there is a risk that the purpose of the levy (to fund infrastructure) is diluted if affordable housing is brought into it. There is a case to be made for the retention of S106 (or similar) to deal specifically with affordable housing.

Q24(b): Should affordable housing be secured as in-kind payment towards the Infrastructure Levy, or as a 'right to purchase' at discounted rates for local authorities? [Yes / No / Not sure. Please provide supporting statement.]

Answer: Not sure

Additional statement:

Out of the two options, secured as 'in-kind' payment towards the Infrastructure Levy seems to work best for Cheshire East.

No real detail is provided around the 'right to purchase' method, and the developer retaining the ability to determine which units are to be offered as affordable could impact pepper-potting and neglect affordable housing to the poorest parts of sites. Whilst this is typically the case, LPA's currently have the ability to amend/alter this through the planning process. Whilst this approach would seem to secure the required numbers of affordable homes, together with a greater focus on zoning, permitted development and reducing the consent process the place-making aspect of distributing affordable housing across sites will be lost under these provisions.

Further guidance is need in regard to the forms and tenures of on-site provision – how is the provider nominated, and against what criteria? Is it the developers choice? If so, there could be consequences for Registered Providers looking to pick up new development opportunities. Some developers currently have ‘preferred providers’ who get first refusal of S106 opportunities.

Q24(c): If an in-kind delivery approach is taken, should we mitigate against local authority overpayment risk? [Yes / No / Not sure. Please provide supporting statement.]

Answer: Yes

Additional statement:

Yes, this seems sensible. Proposed contracts via Government which will prevent developers claiming overpayments seems appropriate.

Q24(d): If an in-kind delivery approach is taken, are there additional steps that would need to be taken to support affordable housing quality? [Yes / No / Not sure. Please provide supporting statement.]

Answer: Yes

Additional statement:

The planning process (especially relating to design) may help to filter out poor quality affordable design which should mitigate some of this risk and the most common feedback we receive from providers are that bedrooms are too small. In focusing on better design, the requirement for minimum space standards would help address this.

Q25: Should local authorities have fewer restrictions over how they spend the Infrastructure Levy? [Yes / No / Not sure. Please provide supporting statement.]

Answer: Yes

Additional statement:

Yes, but there needs to be a mechanism (such as the Infrastructure Delivery Plan) or a ‘live’ dataset which sets out transparently what the infrastructure priorities are, their costs and the cumulative spend against them. This information is important in order to engage with other infrastructure providers / statutory consultees and bring forward necessary infrastructure.

Q25(a): If yes, should an affordable housing ‘ring-fence’ be developed? [Yes / No / Not sure. Please provide supporting statement.]

Answer: Yes

Additional statement:

To ensure the purpose of the infrastructure levy is not diluted (and therefore put at risk infrastructure delivery) it is important to recognise the affordable housing contributions are a separate resource for a specific purpose. In some instances it is necessary to forego an element of affordable housing provision to achieve a positive outcome (for example where sites are funding an important piece of infrastructure in an area where viability is marginal) and the retention of a flexible mechanism that would allow this trade-off would have advantages.

Q39: 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?

Whilst an increased focus on digital services is beneficial on a number of measures, there must be an awareness that some groups with protected characteristics are potentially disadvantaged by a planning system that only works through digital means. Women, disabled people and older people are all less likely to have access to and use digital services and awareness of this, and measures that improve these groups ability to access digital services, is essential to ensure a planning system that is open to participation by all is achieved.