



**REPORT of  
DIRECTOR OF STRATEGY, PERFORMANCE AND GOVERNANCE**

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**to  
COUNCIL  
1 OCTOBER 2020**

**WHITE PAPER 2020**

**1. PURPOSE OF THE REPORT**

- 1.1 The Government wishes to make further changes to the plan preparation and decision-making processes. This report provides an overview of the housing white paper ‘Planning for the Future’ which was published on 6 August 2020 for the purposes of a consultation, that runs until 29 October 2020.
- 1.2 This report outlines the key issues and proposals within the consultation. It includes analysis of the effects of the proposed changes as they might affect the District and then offers some suggested answers to the questions posed within the consultation.

**2. RECOMMENDATIONS**

- (i) That the recent White Paper and associated interim measures consultation paper along with the proposals contained in both documents are noted;
- (ii) That the officers suggested responses are approved to be submitted in response to the consultation.
- 2.1 Alternatively, the Council could decide not to respond to the consultation or offer any revisions to the responses produced by Officers.

**3. SUMMARY OF KEY ISSUES**

- 3.1 The Planning for the Future White Paper covers a package of proposals for reform of the planning system in England, covering plan-making, development management, development contributions, and other related policy proposals.
- 3.2 The proposed changes being considered are summarised below:
- (i) A chief officer for design and place-making will be appointed in each Local Planning Authority (LPA);
- (ii) Local plans to be standardised; a model template for Local Plans will be published in advance of legislation being brought into force;
- (iii) Evidence based studies required for Local Plan to be reduced (guide to be published);

- (iv) Local plans will be prepared in 30 months (Proposal 8);
- (v) Local plans will cover at least a ten-year period;
- (vi) Design codes and guidance will be developed via the Local Plan for two of the three planning areas; Growth, Renewal and Protected (Proposal 11);
- (vii) Growth areas in Local Plan will be given outline planning permission;
- (viii) Renewal areas will have a strengthened Presumption in favour of sustainable development; there will be further onus on the part of the Councils to demonstrate harm when issuing refusals;
- (ix) Protected areas will include sites and areas which justify more stringent planning controls to ensure sustainability and includes Areas of Outstanding Natural Beauty (AONBs), Green Belt and Conservation Areas;
- (x) Development management policies will be set in National Planning Policy;
- (xi) Local Plans will be fully web based rather than document based and in a standard format including interactive mapping detailing design codes and guidance as appropriate;
- (xii) The Duty to Cooperate, tests of soundness and sustainability appraisals will be replaced with a 'sustainability test' set by the Secretary of State;
- (xiii) Housing targets will be binding and based on a new standard method of calculating housing needs;
- (xiv) The 8 and 13-week planning determinations will be adhered to and there is a proposal of automatic refund of planning fee if not determined within timescale and there is the possibility of some types of planning applications to be deemed to have been granted permission if not determined within timescales;
- (xv) When an application is refused, applicants will be entitled to an automatic rebate of their planning application fee if they are successful at appeal.
- (xvi) The Community Infrastructure Levy (CIL) and Section 106 (S106) to be replaced with a new Infrastructure Levy set nationally. This will be charged on the final value of the scheme over a certain threshold; within the region of 40 to 50 new homes is currently being proposed, paid at occupation, LPAs be able to borrow against levy, affordable housing can be provided in kind.
- (xvii) Planning fees will continue to be set nationally to cover full cost of processing applications based on clear national benchmarking and this should involve the greater regulation of discretionary pre-application charging (Proposal 23);
- (xviii) A small proportion of the income from the new infrastructure levy should be earmarked to cover LPAs overall planning costs, including the preparation and review of Local Plans, design codes and enforcement cases (Proposal 23)
- (xix) Further potential changes will be consulted upon in the autumn.

#### **4. CONSULTATION RESPONSE APPROACH**

- 4.1 The consultation takes the form of responding to a series of questions. This report is set out in the order of the sections of the consultation paper and each section and question is dealt within this order. Each question a short yes, no, maybe structure

with a section below for elaboration. In each case the response proposed by officers has taken the opportunity to add further detail; highlighting a justification for each answer to the quick element with evidence as to how it is considered the proposed changes to the planning system will impact Maldon and where possible including further evidence to support this.

- 4.2 Each section of this report includes an analysis of the potential positive and negative impact that the proposed changes may have with a Maldon centric emphasis followed by the proposed response to the consultation.

## 5. **PILLAR ONE – PLANNING FOR DEVELOPMENT**

- 5.1 Plan making is suggested to be slow cumbersome, the White Paper promotes a more rules-based approach with local plans focused more on zoning and design codes rather than a site by site application of planning policies leading to perceived shortcomings in the present system i.e. less certainty rather to both local communities and those seeking to develop. The White paper sets out the proposals shown below.
- 5.2 **Proposal 1:** The role of land use plans should be simplified. It is proposed 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.
- 5.3 **Proposal 2:** Development management policies to be established at national scale and an altered role for Local Plans.
- 5.4 **Proposal 3:** Local Plans should be subject to a single statutory “sustainable development” test, replacing the existing tests of soundness.
- 5.5 **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.
- 5.6 **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.
- 5.7 **Proposal 6:** Decision-making should be faster and more certain, with firm deadlines, and make greater use of digital technology.
- 5.8 **Proposal 7:** Local Plans should be visual and map-based, standardised, based on the latest digital technology, and supported by a new template.
- 5.9 **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.

- 5.10 **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.
- 5.11 **Proposal 10:** A stronger emphasis on build out through planning.
- 5.12 Linked to the above proposals the consultation requests responses to the following questions:
- 5.12.1 **Question One:** What three words do you associate most with the planning system in England?

**Officers recommended response**

Complex, Outdated & Undervalued.

- 5.12.2 **Question Two:** (a). Do you get involved with planning decisions in your local area? [Yes / No]
- (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]?

**Officers recommended response**

Yes – As an LPA for the Maldon District.

- 5.12.3 **Question Three:** 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] the planning system in England?

**Officers recommended response**

Maldon District Council (MDC) supports the ambition to make the planning system and ability of all stakeholders to get involved in shaping the future of the District. The Council will embrace new technologies where applicable to enable the widest reach in terms of consultation.

Notwithstanding this the move to online platforms will not be able to entirely replace more traditional and analogue methods of all types of engagement will be a hinderance to this for some groups, including the potential for groups with protected characteristics. It is known that a subsection of more elderly people are not confident with the use of computers and the internet. Furthermore, some people also have no access to computers.

However, currently there are some groups within communities that would likely be better represented if more resources were available online therefore MDC suggests it is important that any options for changes to the planning engagement process are carefully considered and assessed in relation to the Equalities Act 2010.

- 5.12.4 **Question Four:** *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]

**Officers recommended response**

Providing appropriate homes in the right locations, delivery of supporting infrastructure and environmental protection and biodiversity.

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

**Officers recommended response**

**Not Sure**

In principle many stakeholders will agree with the notion that the Local Plan process could be simplified however there is little to suggest that the proposals being put forward would lead to a simplified planning system. It is queried as to what evidence base would be required for the type of Local Plan as that which is proposed. Therefore MDC is unclear as to if they agree with the approach that maybe taken.

We agree with the broad principle of simplifying Local Plans and the proposal that sites allocated for Growth would have outline planning approval, automatically establishing the principle of development. We also agree with the proposal that the term ‘substantial development’ would be clearly defined in policy. (Should this be defined in legislation?) However we raise the following concerns in how this simplification is taken forward:

It is likely that allocations for Growth will require more detailed consideration and scrutiny during the local plan preparation and examination stages, for example in terms of transport and sustainability impacts. This will front load the evidence and work required during local plan examinations.

The examination process needs to ensure that the deliverability of Growth areas and critical supporting infrastructure is demonstrated to avoid the allocation of areas or sites that are undeliverable.

It is unclear how smaller sites for development, which are located outside of existing built up areas, could be allocated. Provision should be included for such smaller sites to be allocated.

More clarity is needed in relation to whether the Renewal areas can be flexible enough to deal with a range of site characteristics, existing uses and built infrastructure within existing built up areas, some of which may be of local value to retain within any wider or site redevelopment.

We do not support the alternative option of combining Growth and Renewal areas set out in para 2.11.

We would support the alternative option set out in para 2.12 of limiting outline planning approval to allocated Growth areas, with other areas of land identified for different forms of development as determined by the local planning authority and subject to the existing development management process, with the additional acknowledgment that local plan policies where appropriate are also taken into consideration alongside national planning policies.

In all likelihood the same substantive evidence base would likely be required to support any meaningful assessment of the proposals for the Growth, Renewal and Protected areas. In actuality, many of the proposals is closely aligned to the way the system works currently however with some renaming.

In essence; Growth Areas amount to allocations, Renewal Areas are locations within existing settlement boundaries and Protected areas are areas outside existing settlement boundaries. For this reason it is suggested that if the new system could predominantly mirror that which is currently in place there is no need to complicate the issue. It is understood the process after the designation of Renewal, Growth or Protected would vary from the current offering however there needs to be further elaboration of the detail.

Furthermore, the amount of resource that often is required for points to be clarified through Examinations in Public (EiPs) and Public Enquiries when national policy is ambiguous, such as the meaning of deliverability, has the opposite effect to that intended. Constant changes to the planning system without the required clarity is concerning. This is the opposite effect to the direction of travel of the white paper; simplifying and essentially speeding up the planning process.

It should also be noted that several reports have noted that the planning system is not a barrier to development and that the retention of plots, or land banking, is part of the issue which has led to the lower build out rates nationally.

5.12.6 **Question Six:** 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.]

#### **Officers recommended response**

##### **Yes**

In principle there are some benefits to this proposal. Many development management policies across the country are variations of one another. The issue is that if the national policy is inadequate then the local protection to that policy, or the justification to deviate from that policy will be hard to evidence.

A template version of development plan policies could be beneficial however and even a standardised approach to the information that should be included in other policies could be of benefit. Standardised policy referencing would also be beneficial to all parties. IE;

5.12.7 **Question Seven:** (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.]

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

#### **Officers recommended response**

##### **In Relation to 7(A): Not Sure**

Further detail of the test of ‘sustainable development’ is required to assess if this would be something that MDC would concur with however the legal compliance and policy tests are safeguards that ensure that, as objectively as possible, plans are sufficiently sustainable. There is a concern that a watered-down version of this test could ultimately lead to lower standards of sustainability for the future when the sustainability needs to be put front and centre in decision making going forward with the climate crisis now more significant than at any point in the past.

##### **In Relation to 7(B): Not Sure**

Strategic and cross boundary issues have been amended from the previous regional strategies to the current duty to cooperate. It is suggested that, similarly to other sections of the MDC response, amendments to process often end up leading to longer periods where the exact nature of requirements need to be clarified through the examination process. In principle there is no objection to various guises of strategies and cooperation between different LPAs and the wider localities however substantive and acute clarification of the process and requirements would be advantageous.

5.12.8 **Question Eight:** (a). Do you agree that a standard method for establishing housing requirements (that takes into account constraints) should be introduced? [Yes / No / Not sure. Please provide supporting statement.]

(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.]

#### **Officers recommended response**

##### **(A) Not sure**

It is sensible to have a standard method to consistently calculate housing requirements. It would also be reasonable to consider local constraints to development. However, this consultation does provide sufficient detail from which to draw a reasoned conclusion. The consultation only refers to Green Belt, which is a policy constraint to development. Areas of Flood Risk, the historic environment and internationally important areas for nature

conservation, and other physical constraints to development should have equal weight in the process to the Green Belt.

It is necessary that the weight given to different constraints in the process and any variances from the standard method to be set nationally, to reduce ensure that time and resources are not wasted on disputes throughout the Local Plan preparation process and at Planning Appeals. It is also necessary to determine how any unmet need arising from the application of these constraints to the housing need calculation are met.

**(B) No**

Increasing the housing requirement for a LPA due to housing affordability issues will not automatically result in more affordable houses being built, nor will it necessarily result in a drop in house prices relative to local incomes. Nor does it require the timely completion of sites with planning permission. Therefore, affordability is not an appropriate indicator of the amount of development required.

The existing extent of urban areas could be a useful indicator of the quantity of development that could be accommodated in a LPA area. Using this indicator could ensure that the growth of individual areas is related to their existing size and the level of services available.

5.12.9 **Question Nine:** (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.]

(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.]

(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.]

**Officers recommended response**

(a) **No**

In principle making any processes more efficient is supported where there is not a loss in the quality of development in the widest sense. However, an allocation under the current system is in effect similar to a growth area. In both scenarios the broad principles of development have been agreed and the detail of the design is to be established through further refinement. The changes proposed need to have further clarification as the nuance of the amendments from the current system to that proposed could be simply rhetoric or substantially different. (HMMM?)

(b) **No**

Similar points can be raised here in relation to subsection 9(A). The value of the amendments will be entirely dependent on the detail.



(c) Yes

It is suggested in certain circumstances that this could be a supported change however the detail of these arrangements need to be elaborated upon. There are already powers in place (I think??) in certain circumstances.

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

**Officers recommended response**

Not Sure

The principle of a faster and more certain decision making is favourable however there is little detail as to how this will work in practice. There are concerns that this will lead to a lack of quality in the built environment though it is noted on page eight of the paper that *'We are cutting red tape, but not standards. This Government doesn't want to just build houses. We want a society that has re-established powerful links between identity and place, between our unmatched architectural heritage and the future, between community and purpose'*.

Though admirable to have the quoted goals they do not coincide neatly with the matter of speed. As our response will detail in Pillar Two the emphasis on design is correctly highlighted to be a top priority however the issue of putting design codes in place will be complicated. The resources and skill set available within LPAs and the country more widely is limited and it would take some years to create the capacity required.

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

**Officers recommended response**

Yes

The inclusion of any diversification in platform for stakeholders to engage with the planning system is broadly supported however this cannot fully replace face to face and other types of consultation. MDC consider that standardised software procured by the national government that can be facilitate personalised information for various LPAs would also be beneficial; saving time and financial resources. The quality of such a platform would could also be greatly improved by such a process as oppose to each LPA procuring different companies to develop the digital infrastructure to enable this on an ad-hoc basis.

5.12.12 **Question Twelve:** 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.]

**Officers recommended response**

**No**

MDC would suggest that the streamlining of the planning system can be supported dependant upon the alterations that would enable this however there is little to no evidence to support that this aspiration is feasible. Concerns are raised in relation to the consequences of not having the plan produced within a 30-month period; would the Local Policies be negated in decision making?

5.12.13 **Question Thirteen:** (a). Do you agree that Neighbourhood Plans should be retained in the reformed planning system? [Yes / No / Not sure. Please provide supporting statement.] 13(b). How can the neighbourhood planning process be developed to meet our objectives, such as in the use of digital tools and reflecting community preferences about design?

**Officers recommended response**

**Yes**

Neighbourhood Planning has become a staple of many areas and offered some groups an opportunity that is deemed to be greater than pre neighbourhood plans to influence and shape the places in which they work and live. If Neighbourhood plans are to be retained it will be important to assess how these sit within the new system and what weight shall be attributed to them.

In the instance that they are removed from the current system a transitional arrangement should be put in place alongside a clear rationale highlighting how the offering of Localism that was instilled in the Neighbourhood Plans has been translated or filtered in the proposed system.

5.12.14 **Question Fourteen:** 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.]

**Officers recommended response**

**Not Sure**

Clarification is needed as to what the stronger emphasis would mean in terms of outcomes. The penalisation of LPAs for the low build out rates of permitted developments is not supported, and the track records of developers is a complex issue to grapple with. Developers often do not own the land until they are ready to develop and multitude of reasons can be given for the housing delivery of any site or locality by developers.

## 6. PILLAR TWO – PLANNING FOR BEAUTIFUL AND SUSTAINABLE PLACES

- 6.1 The paper states that *“This autumn [The Government] will publish a National Model Design Code to supplement the guide, setting out more detailed parameters for development in different types of location: issues such as the arrangement and proportions of streets and urban blocks, positioning and hierarchy of public spaces, successful parking arrangements, placement of street trees, and high quality cycling and walking provision, in line with our wider vision for cycling and walking in England. It will be accompanied by worked examples, and complement a revised and consolidated Manual for Streets”*.
- 6.2 Essential to the overall restructuring of plan making and decision making is the increased emphasis on the use of design codes to guide development. Further to this is a acknowledgement for the need for increased and enhanced skills capacity within planning sections and the notion of a “Chief Officer”. The White paper states *“The vision which we have set out will require a step-change in the design skills available to many local planning authorities, as well as the right prioritisation and leadership across the sector”*. Below are the proposals highlighted in the consultation.
- 6.3 **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.
- 6.4 **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.
- 6.5 **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.
- 6.6 **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.
- 6.7 **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.
- 6.8 **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.
- 6.9 **Proposal 17:** Conserving and enhancing our historic buildings and areas in the 21st century.

6.10 **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.

6.11 Relating to the proposals outline within the pillar are the following questions:

6.11.1 **Question Fifteen:** 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]

#### **Officers recommended response**

##### **Other**

The design of development within the Maldon District has varied in quality dependent upon the scheme. To a large extent design in some respects is subjective but MDC has as a Council attempted to ensure that the new developments within the District have been to the best quality as far as is within its powers.

It should be noted however, that a higher level of design aspiration is rarely supported by the Planning Inspectorate, especially if a LPA cannot demonstrate a Five Year Housing Land Supply (5YHLS). The requirement for houses often overrides any requirement for good design.

6.11.2 **Question Sixteen:** 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]

#### **Officers recommended response**

##### **Yes**

All the stated hint answers are important to the level of sustainability that can be implemented within the District. A key issue in Maldon is the lack of strategic sustainable infrastructure linking the Maldon District to neighbouring areas which has led to car dependency being relatively high.

Development in sustainable locations has a higher priority than the individual sustainability issues given in the question. Care should be given to any amendments to national policy to ensure that developments are in close proximity to public transport, facilities and services required for day to day living, and in safe locations (i.e. not in Flood Zones.).

- 6.11.3 **Question Seventeen:** 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.]

**Officers recommended response**

**Yes**

Maldon District Council already has several design based Supplementary Planning Documents (SPDs) in place within the district to guide the nature of the development that is sought for those specific areas. Concern is raised in relation to the weight that will be afforded to any existing design guides under any reformed planning system.

MDC would like to see existing design guide kept at least through transitional arrangements and for there to be an opportunity for Councils with existing guides and codes to be given the opportunity to update them to reflect any changes in national policy that would be required to ensure they are compliant.

- 6.11.4 **Question Eighteen:** 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.]

**Officers recommended response**

**Not Sure**

The ambition to emphasise the importance of good design is supported by the Council, however, as with many aspects of the consultation, further details of the arrangements new body, including who would be within this organisation, would be beneficial. MDC considers that the inclusion of appropriately skilled professionals from a range of place-making sectors (Planners, Architects, Urban Designers, etc), would be beneficial to such an organisation. It is a matter of fact that most development in the UK are not designed in detail by any architects which may be part of the cause for the non-descript and generic appearance of much development produced in the last 20 or so years.

Each authority should have a chief officer for design and place-making; the council again supports any emphasise the importance of good design within LPAs. Further detail of the remit of this chief officer and the necessary skill set for the role would be appreciated alongside what background and expertise it is envisaged they would likely possess.

- 6.11.5 **Question Nineteen:** 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.]

**Officers recommended response**

**Yes**

Homes England is in a unique position to illustrate and set a precedent as to the Government's vision for the future of development. It should be made a key aspect in any schemes produced by homes England and furthermore any lack of quality in schemes proposed by Homes England be detrimental to any progression towards better design more widely.

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

**Officers recommended response**

**Not Sure**

The Council would support this in principle, but how do you implement this, as 'beauty is in the eye of the beholder'. There are objective standards that can be required by any design code or design guide however the interpretation as to if they have been met can often be a subjective one. This proposal risks increasing the level of challenges to development proposals, thus slowing down the process in the long run with the possibility of appeals to decisions made.

## **7. PILLAR THREE – A NEW APPROACH TO PLAN MAKING**

- 7.1 Both S106 agreements and local CIL come in for scrutiny and recommendations to reform through the whitepaper.
- 7.2 **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.
- 7.3 **Proposal 20:** The scope of the Infrastructure Levy could be extended to capture changes of use through permitted development rights.
- 7.4 **Proposal 21:** The reformed Infrastructure Levy should deliver affordable housing provision.
- 7.5 **Proposal 22:** More freedom could be given to local authorities over how they spend the Infrastructure Levy.
- 7.6 **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. In doing so, we propose this strategy will

be developed including the following key elements: The cost of operating the new planning system should be principally funded by the beneficiaries of planning gain – landowners and developers – rather than the national or local taxpayer.

7.7 Related to the proposals above the following questions are put to consultees:

7.7.1 **Question Twenty One:** *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]

#### **Officers recommended response**

The priorities in terms of development value are to support the delivery of both affordable housing and supporting infrastructure including critical infrastructure to enable development to be delivered.

7.7.2 **Question Twenty Two:** (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.]

*(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]

*(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.]

*(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.]

#### **Officers recommended response**

(A) We support in principle the proposal to consolidate the existing Community Infrastructure Levy and S106 into an Infrastructure Levy and for the proposed Infrastructure Levy to be collected by the local planning authority. More detail needs to be provided on the proposed mechanism for collection of the Infrastructure Levy. If the Infrastructure Levy is to be collected nationally, more detail needs to be provided on the proposed mechanism for redistribution of the Infrastructure Levy to the local planning authority.

(B) The Infrastructure Levy rates and the value-based minimum thresholds should be set locally to ensure that the rates and threshold reflect the optimum rate for the local area: if rates are too high then some development may not proceed, if rates are too low then less value will be collected.

(C) Assuming the same viability basis, the Infrastructure Levy should aim to capture at

least the same amount of value overall on a local area basis as the combined S106 and CIL (or potential CIL) values. Depending on the local viability, we agree that a greater proportion of land value uplift should be captured on a local area basis if it does not undermine the viability, delivery and quality of development.

(D) Local authorities should be allowed to borrow against projected Infrastructure Levy income within their area to forward fund infrastructure however this should be discretionary and should not be relied upon to forward fund delivery of affordable housing or the delivery of critical infrastructure to support growth. As the proposals are for the Infrastructure Levy to be collected at the time of occupation further detail needs to be provided setting out how critical infrastructure will be funded and delivered at appropriate phases as development progresses, especially on strategic scale sites and developments and for strategic infrastructure that supports multiple development sites. It is also of concern that where local authorities borrow against future development value, this will reduce what is available to spend from the levy as interest charges will be incurred. The cost of interest charges will be compounded for developments with a long delivery timescale. Inflation may further reduce what can be funded by the levy value agreed at the time of planning permission.

- 7.7.3 **Question Twenty Three:** *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.]

#### **Officers recommended response**

##### **Yes**

There are opportunities the formation of significant numbers of new dwellings (e.g. - Office to Residential) through permitted development rights. There is a solid justification for these forms of development to contribute to the services and infrastructure future occupiers will benefit from.

- 7.7.4 **Question Twenty Four:** *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?* [Yes / No / Not sure. Please provide supporting statement.]

*(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.]

*(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.]

*(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.]



## Officers recommended response

(A) **Not sure** - Assuming the same viability and cost basis, the Infrastructure Levy should aim to provide at a local area level at least the same amount of affordable housing overall providing that this does not undermine the funding and delivery of critical infrastructure to support proposed growth. Further detail should be provided on what implications the proposed changes to the affordable housing mix would have on the per unit cost of affordable housing units and on the overall amounts of affordable housing that can be delivered for the same cash liability value under the Infrastructure Levy.

(B) **Not sure** - The terminology used in the consultation paper is confusing and needs clarifying. Any proposed mechanism for the provision of affordable housing to be considered as in-kind payment towards the Infrastructure Levy should ensure that there is no reduction in the cash liability of the Infrastructure Levy toward the delivery of critical infrastructure compared to the combined S106 and CIL (or potential CIL) payments.

We do not support the proposal to ‘flip’ a proportion of affordable housing units back to market units in the event of a market fall. This would result in the local authority and the affordable housing delivery taking the risk of a market fall. This risk will be compounded if all of the Infrastructure Levy is offset by affordable housing and there is no cash liability toward the Infrastructure Levy, with a resulting risk of no affordable housing and no cash liability of the Infrastructure Levy and critical infrastructure not being adequately funded.

We support the alternative proposal set out in paragraph 4.25 for a ‘first refusal’ right for local authorities or any affordable housing provider acting on their behalf to buy up to a set proportion of onsite units if that proportion is set locally, as a nationally set proportion would not reflect local needs. Further consultation when clarification is available would be appreciated.

(C) **Not sure** - We do not support the proposal to ‘flip’ a proportion of affordable housing units back to market units in the event of a market fall. This would result in the local authority and the affordable housing delivery taking the risk of a market fall. This risk will be compounded if all of the Infrastructure Levy is offset by affordable housing and there is no cash liability toward the Infrastructure Levy, with a resulting risk of no affordable housing and no cash liability of the Infrastructure Levy and critical infrastructure not being adequately funded.

We support the alternative proposal set out in paragraph 4.25 for a ‘first refusal’ right for local authorities or any affordable housing provider acting on their behalf to buy up to a set proportion of onsite units if that proportion is set locally, as a nationally set proportion would not reflect local needs.

It is unclear how a situation would arise where the value of affordable housing units provided would be greater than the Levy liability. Should that situation arise, and the affordable housing is being provided as an in kind payment to the Infrastructure Levy, then developers should have no right to reclaim overpayments.

(D) **Not sure** - There need to be national quality standards for affordable housing that are applied universally. It would like be beneficial for all new homes to be to the same standards generally including market housing where applicable.

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

25(a)[numerical mistake in the consultation paper]. If yes, should an affordable housing 'ring-fence' be developed? [Yes / No / Not sure. Please provide supporting statement.]

#### **Officers recommended response**

(25) **Yes** - Although, further detail and clear prioritisation should be provided regarding the core infrastructure obligations that the Infrastructure Levy is proposed to prioritise funding towards, to ensure that the funding and delivery of both affordable housing and critical infrastructure are prioritised.

(A) **Yes** - A ring fence mechanism separating affordable housing and infrastructure spend should be established which effectively ensures that the funding and delivery of both affordable housing and critical infrastructure to support proposed local growth are prioritised.

We support the proposal in paragraph 5.21 that the Government will make available time limited funding as part of the next Spending Review to support local planning authorities to transition to the new planning system. However, we note the proposal in paragraph 5.23 that the Planning Inspectorate and statutory consultees should become more self-financing through new charging mechanisms. We therefore support the proposed transitional funding arrangements if these additional proposed costs are also reflected in the transitional funding made available from the Government.

## **8. EQUALITY ACT 2010**

8.1 **Question Twenty Six:** 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?

#### **Officers recommended response**

There undoubtedly are potential positive and negative impacts for those with protected characteristics. With the proposals in their current form it is not possible assess in detail the possible discrimination that could arise in relation to those with protected characteristics as described within the Equality Act 2010.

MDC would urge the government to publish a Equality Impact Assessment when the detailed nature of proposed changes have been further worked through to ensure that the changes are compliant and do not cause any undue discrimination to protected groups.

## 9. CONCLUSION

- 9.1 Officers have worked collaboratively when discussing the proposed answers to the consultation and it is suggested that the general consensus is that without further detail in relation to many aspects of the proposals it is quite unclear what the ramifications will be for the District. Notwithstanding this, officers believe that with the level of information currently available the proposed response raises key issues to be addressed and highlights further lines of investigation that should be considered by the national government.

## 10. IMPACT ON STRATEGIC THEMES

- 10.1 Strategic themes may require some amendments dependent upon the final nature of the proposals.

## 11. IMPLICATIONS

- 11.1 Prior to running through the implications below, please note that further implications potential implications have been included within the proposed responses to the consultation. At this point in time, when the final detail of the changes are at consultation it is not possible to know all the ramifications that could be arise.
- (i) **Impact on Customers** – There could be some changes to the customer experience dependent upon the level of change and finer details of the proposals. An example would be that the move to an online only platform for Local Plans could allow easier access to those who are not able to attend public consultation events however this could also have negative impact for those who do not have access or are less familiar with using these types of formats.
  - (ii) **Impact on Equalities** – Similarly to the aforementioned depending on the nature of the final changes to the planning system different groups protected under the Equalities Act 2010 could benefit or be disadvantaged by any changes. Question 26 of the consultation paper requests feedback on this matter and a proposed response has been included within the officers proposed response under para 8.1 of this response.
  - (iii) **Impact on Risk** – There is no specific impact on risk at this time; further assessment of this will be possible when the nature of the full amendments are known.
  - (iv) **Impact on Resources (financial)** – As with the other implications it is not entirely clear as to what the impact on resources will be. The white paper does propose all LPAs will have a chief officer for design and place-making will be appointed in each LPA however this may require additional funding and it is unclear as to whether this will be financially resourced via a ‘new burdens’ route which is common practice when LPAs are required to obtain further resources.

- (v) **Impact on Resources (human)** – As above; there maybe a requirement, for example, for a new Chief Officer for design. With all LPAs requiring this it maybe quite challenging for some areas to recruit to this role. Beyond this it is unclear as to what qualifications or experience they may require. It would appear that architecture and urban design qualifications and experience would be beneficial. The full proposed job specification would be of assistance in trying to further assess the implications.
- (vi) **Impact on the Environment** – The finer detail of the proposals will assist in assessing the impact on the environment. Some proposals, such as street lined trees may have a benefit to the environment in several respects however the increased need for further development, dependant on the location of the development could have negative implications for the environment.
- (vii) **Impact on Strengthening Communities** – The level of consultation and stage of consultation and engagement with communities would change if some of the proposals come to fruition. There could be benefits and negative implications for most of the proposals.

**Background Papers:**

Ministry of Housing, Communities and Local Government (MHCLG) letter to Chief Planning Officers (July 2020) -

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/904586/Chief\\_Planners\\_Newsletter\\_-\\_July\\_2020.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/904586/Chief_Planners_Newsletter_-_July_2020.pdf)

MHCLG Consultations Paper - The Future of Planning. (MHCLG August 2020) -

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/907647/MHCLG-Planning-Consultation.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/907647/MHCLG-Planning-Consultation.pdf)

MHCLG Consultation Paper - Changes to the current planning system:  
(MHCLG August 2020) -

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/907215/200805\\_Changes\\_to\\_the\\_current\\_planning\\_system\\_FINAL\\_version.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/907215/200805_Changes_to_the_current_planning_system_FINAL_version.pdf)

**Enquiries to:**