

## APPENDIX A

### Planning for the Future - Planning White Paper August 2020

#### Proposed Responses to Consultation Questions

<b>1. What three words do you associate most with the planning system in England?</b>
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Response:

No response – the question is overly simplistic.

<b>2(a). Do you get involved with planning decisions in your local area?</b>
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Response:

Yes – Bracknell Forest Council is the Local Planning Authority

<b>2(b). If no, why not?</b>
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Response:

N/A

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

The Council wishes to ensure that consultation is inclusive and reaches all sectors of the community.

It should be remembered that some people have no or limited access to a computer or are not confident in using them. Equality duties require us to consider how information can be provided efficiently and effectively.

<b>4. What are your top three priorities for planning in your local area? [</b>
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Response:

Based on the Council Plan priorities:

- Action on climate change
- Reducing homelessness
- Protecting and enhancing the environment

<b>5. Do you agree that Local Plans should be simplified in line with our proposals?</b>
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Response:

No

Agree that there is a need to reform the current process in terms of the multiplicity of legislation that now applies (due to continual changes). However, there is no evidence provided that the proposed changes are an appropriate response to this or that the current system is not working effectively. An approach that is based on 3 zones is very simplistic and does not reflect the complexity of the geography and nature of an area or the complex factors that influence the development process. Furthermore, the timescales that are set out for the preparation of a local plan are not realistic, particularly where significant growth is being proposed and complex sites must be assessed. There also appears to be an over-emphasis on housing since there are only brief references to economic issues and no references to how minerals and waste is to be dealt with. Attention is drawn to the current NPPF (para 20) which lists a range of issues that should be dealt with in strategic local plan policies.

Whilst there are clear benefits of having visual and map-based standardised formats based on
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the latest digital technology, there must be the ability to address issues specific to the area. The measures suggested would need to be supported by the necessary resources both in terms of staff with appropriate technical expertise and investment in technology.

Whilst the document claims that there would be an emphasis on engagement at the plan-making stage, it would appear that stakeholders would have less opportunity to make their views known under the proposed system. In preparing our emerging plan, Bracknell Forest Council has given people the opportunity to have their say more than once at the Regulation 18 stage. Such consultations often result in local issues being drawn to the attention of the Council that need to be taken on board in proposed policies. The proposals suggest that people would only be able to comment on a draft plan at submission which seems too late in the process.

(Also see response to Question 12)

**6. Do you agree with our proposals for streamlining the development management content of Local Plans, and setting out general development management policies nationally?**

Response:

No

This approach may work for some issues where principles are already well established such as heritage ,and Green Belt (assuming these aspects get taken forward into a new NPPF). However, there are others which need a local (or sub-regional) approach such as policies for habitat areas such as the Thames Basin Heaths Special Protection Area.

It is unclear what the scope of issues to be covered in an updated NPPF will be – currently there is little guidance in national policy on development in the countryside in terms of assessing a planning proposal. It is not clear how matters such as landscape character, housing mix etc will be dealt with. These need to relate to local evidence. There must be an ability to set policies that respond to local issues and community needs.

The consultation is heavily focused on housing with little on how development proposals (including need) for other uses will be addressed such as retail and employment.

It is queried whether policies can be fully standardised to fit the whole of England. The approach may mean going back to the PPGs/PPS format which was dropped in the interest of streamlining the system. The approach of having nationally derived development management policies also takes away local powers and accountability and makes such policies more detached from the communities that will be affected by them.

**7(a). Do you agree with our proposals to replace existing legal and policy tests for Local Plans with a consolidated test of “sustainable development”, which would include consideration of environmental impact?**

Response:

Not sure (not enough detail to form a definitive view).

The consultation lacks any detail of the definition of sustainable development, or how it would be tested, including how this will meet legal requirements.

Considering clauses from the White paper, proposal 16 in turn:

*'Proposal 16: We intend to design a quicker, simpler framework for assessing environmental impacts and enhancement opportunities, that speeds up the process while protecting and enhancing the most valuable and important habitats and species in England.'*

The proposal is focused on habitats and species, which is clearly an important consideration within sustainable development. Sustainable development is however far more wide reaching than this.

*'Processes for environmental assessment and mitigation need to be quicker and speed up decision-making and the delivery of development projects.'*

This would be a clear benefit of any reform.

*'The environmental aspects of a plan or project should be considered early in the process, and to clear timescales.'*

The key environmental aspect of the Bracknell Forest Local Plan (and the majority of other local plans) will be the housing requirement imposed nationally, over which planning authorities have no control. There is no information on how government would consider the environmental aspects of the housing requirement being imposed across the breadth of the country. It is not clear whether it would be directed to the most sustainable areas. No evidence is provided to support the sustainability of the housing requirement policy and it is unclear how this evidence would be updated as housing need changes.

*'National and local level data, made available to authorities, communities and applicants in digital form, should make it easier to re-use and update information and reduce the need for site-specific surveys.'*

- National and considerable amounts of local level data are already available to authorities, communities and applicants in digital form, albeit often sourced from different locations.
- If the proposal goes on to appraise development potential based on the use of this data (this is not clear in the White paper), there are often considerable flaws in the findings of SAs where the appraisal is based on analysis of mapping, with many issues missed, overlooked or incorrectly interpreted.
- It is not clear what data would be used. Many 'growth' and 'protected' areas are likely to be outside of the Green Belt, Areas of Outstanding Natural Beauty (AONBs), Conservation Areas, Local Wildlife Sites, areas of significant flood risk and important areas of green space (and other such high level designations). There is concern as to whether such areas can be robustly assessed based on standard data sets to identify the most sustainable development locations. Whilst this can work for some aspects, others are less well suited to appraisal through the use of digital data (e.g. landscape character), and data is not complete/comprehensive/consistent for other topics. For example, failure to consider undesignated landscapes would fail to meet the aim of the White Paper to create 'beautiful' places.
- Local data is often missing or inconsistent. For example, groundwater flood risk is a key issue in Bracknell Forest, particularly where it coincides with surface water flood risk (this is a more significant issue than fluvial flood risk). BFC currently uses bespoke data to assess this issue – and it is not clear how this would be covered in the new system. Failure to include such locally specific considerations will result in sites being taken forward for development that are either not feasible, or which cannot deliver the extent of development envisaged - undermining the overall aims of the reform.
- Any new system should allow for local variations, based on locally important issues. For example, open space is important to Bracknell Forest's character and a key feature which residents value. It is not clear whether locally specific standards will be permitted and how areas will retain such significant and valued aspects of their character.

*'Requirements for environmental assessment and mitigation need to be simpler to understand and consolidated in one place so far as possible, so that the same impacts and opportunities do not need to be considered twice.'*

- Many housing developments do not require EIA and as such the issues are not considered twice within SA/SEA and then EIA.

- It is not clear how robust environmental assessment will be applied to such "fast-tracked" developments, particularly in relation to local and site-specific environmental considerations.
- The SA/SEA process (and current national policy) is already clear in its outcomes of the most and least sustainable sites. As such this element of the process could be simplified. Where good SA/SEAs provide benefits is the 'grey' areas where further assessment and balancing of issues must take place - this will typically be in the 'growth' and 'protected' areas under the new regime. Given the development pressure that the housing requirement creates, this will continue to be a key issue – it is essential that any simplified system is able to deal with this robustly, whilst taking account of local circumstances and recognising that across the south-east the more sustainably located, less constrained sites have in most cases already been developed.

*'Any new system will need to ensure that we take advantage of opportunities for environmental improvements while also meeting our domestic and international obligations for environmental protection. This will be the subject of a separate and more detailed consultation in the autumn.'*

- A simplified appraisal system (and the shorter timescales to develop local plans) increases the risk of not identifying opportunities for environmental improvements; and the reformed application process significantly increases the risk of not implementing these opportunities.
- Meeting domestic and international obligations is a key risk. Simplification of the process risks legal challenges, with associated significant additional costs and delays.

Further, the proposals should be clear that sustainable development and good design of beautiful places are separate issues. A site may be unsustainably located with significant constraints; however, it could still be designed well or designed poorly. The two issues do not necessarily go hand in hand.

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

Response:

It is agreed that the Duty to Cooperate has largely failed to deliver effective strategic planning and has delayed and added risks to local plan preparation.

There is a need for cohesion between spatial and infrastructure planning which would help to optimise the use of infrastructure funding, whether through local infrastructure funding or bids to government or the LEP.

As a minimum there is a need for sub-regional infrastructure frameworks setting out long term strategic transport and other infrastructure priorities. These would be used to shape spatial priorities in local plans and influence investment priorities for Government and other bodies (e.g. Environment Agency, Highways England Route Investment Strategies), as well as subnational transport bodies. Ideally, these would have a clear short, medium and long-term delivery programme, with funding managed on a shared and coordinated basis. In some instances there may still be a role for shared evidence in areas with similar characteristics, or where constraints cross borough boundaries. However, this often depends on the individual authority finances, and whether Local Plan timetables align, which often prohibit joint working.

It is unclear if the requirement for duty to cooperate is removed, whether there would still be a need to produce statements of common ground on certain matters in advance of the local plan examination process.

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

Response:

No

The consultation paper refers to the need to ensure that enough land is released where affordability is worst and take account of constraints it also states that the standard method would be used to distribute the national housebuilding target of 300,000 new homes. It therefore seems to be driven by this factor. However, the Government has not produced evidence to demonstrate how 300,000 dwellings per annum is aligned with housing needs.

Although a national approach to the derivation of housing numbers is welcomed in terms of providing consistency in approach, the following concerns are expressed.

In terms of the changes to the standard methodology set out in "Changes to the Current Planning System ", this Council is concerned that there is a disproportionate emphasis on affordability. Furthermore, it is not clear how the output of this calculation will be reflected in the 'binding housing requirement'. This consultation refers to other factors being taken into account including constraints, brownfield land, an allowance for land required for other uses, and a buffer but does not make it clear how these are to be assessed/quantified. In areas that are under pressure for development, the uptake of brownfield sites is rapid and there are not pools of such sites waiting for allocation.

In terms of constraints, the following detailed points need to be addressed:

- How constraints will be set, and by whom.
- Whether there will be a national list of constraints, or whether authorities will be expected to do some kind of screening exercise to determine types of constraints which may form the basis of 'protected areas' in terms of the local plan process in terms of consistency.
- How the requirements will relate to the 'protected areas' referred to in the consultation- and whether there will be a nationally prescribed list of constraints which influence the binding housing number, or a case by case approach.
- Whether constraints which influence the 'binding' requirement will be able to be amended following any new local plan process which may identify/allocate further 'protected' areas which may further influence housing delivery.
- How the extent of constraints will be factored in.
- Whether requirements will be discounted based on the proportion of the authority area occupied by the constraints.
- Whether they will be weighted, or there will be a hierarchy of constraints. E.g. will Green Belt be considered a more significant constraint than conservation areas, flooding etc?)
- Whether consideration will be given to different types of constraints e.g policy versus physical such as Green Belt v contaminated land/landfill, or existing residential amenity.
- Whether constraints will focus on environment factors or also consider economic and social aspects (such as areas which already see high affordability, which may be 'constrained' will be seen as further compounding constraints to delivery of development).

It is also unclear what impact the changes to the housing requirement would have on existing provisions relating to Housing Delivery Test and Housing Land Supply (if the alternative set out on page 33 of the White Paper) are taken forward. This would need to be addressed through further transitional arrangements. This matter has also been raised in our response to the 'changes to the current planning system' consultation.

BFC would welcome the opportunity to comment further on these issues, once further details

are known.

**8(b). Do you agree that affordability and the extent of existing urban areas are appropriate indicators of the quantity of development to be accommodated?**

Response:

No

Affordability will not be addressed by simply building more homes. The housing market is complex and other factors beyond planning, such as the cost and availability of finance impact on the housing market. Attention is drawn to the Letwin Review and findings on absorption rates - the number of homes developers build at any one time on sites is limited to prevent a glut driving down prices. There is no evidence to support the view that releasing additional land will result in accelerated delivery or a significant reduction in the cost of new housing. Over the last 10 years, housing completions in Bracknell Forest have increased significantly from 325 dwellings in 2009/10 to 1,731 in 2019/20. However, the affordability ratios suggest that housing has become less affordable.

A two-stage affordability adjustment as proposed in 'Proposed changes to the planning system' results in an over-emphasis on affordability and an unjustifiable uplift over and above the household projections. The Berkshire (including South Bucks) SHMA (2016) dealt with affordability in Bracknell Forest. Although it drew upon slightly different and earlier data, the analysis shows that the uplift suggested by the proposed formula is excessive compared with the figures specified in the SHMA.

Para 59 of the NPPF refers to bringing forward land where it is needed and the standard methodology is aimed at establishing need. It is therefore difficult to understand the basis for using a percentage of the housing stock. Such an approach simply reinforces the existing pattern of development. If such an approach is to be used, the Government needs to ensure that it is supported with an appropriate spatial approach to economic growth so that jobs are provided where homes are being built.

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

Response:

No

Whilst there may be scope for pursuing this option in a limited way, the current proposals do not seem realistic, particularly for Authorities proposing significant growth. Large sites can be affected by a multitude of constraints that may require expensive technical reports and assessment to ensure that impacts can be mitigated. This takes time and resources that are already stretched. There is concern about the practicality of dealing with such matters within the suggested timetable for preparing a Local Plan. The granting of outline permission on adoption of the plan would also result in developers having less flexibility in terms of a development scheme. Some allocated sites are not developed until a few years after adoption and there needs to be the ability for Developers to react to changed circumstances.

It is also unclear how the granting of outline consent at local plan stage aligns with other existing requirements such as Environmental Impact Assessment.

Masterplans/ design codes may not be approved at the same time as the Local Plan and subsequent applications in growth areas do not require assessment. It is not clear how issues that require mitigation, management and enhancement would be addressed e.g. net biodiversity gain.

There is a need for residential developments in Bracknell Forest (and 10 other neighbouring local authorities) to meet the requirements of other statutory provisions in the consideration of

the development in respect to habitat sites (as defined in the NPPF). This process includes the completion of an Appropriate Assessment which requires mitigation to be secured at the point of decision (planning permission). A S106 legal agreement secures the mitigation measures and when it is signed, permission is granted. These measures can include the provision of land (called Suitable Alternative Natural Greenspaces, SANGs) and financial contributions. In order to meet the statutory requirements, the mitigation measures have to be put in place before the assessed harm occurs (which is the recreational activity of new occupants). This is non-negotiable and a prerequisite measure as established in case law. This means payments made on commencement of development to allow time for the contributions to be spent to allow occupations. Similarly, the SANGs need to be landscaped and provided prior to any occupation.

If there is no mechanism to secure in-kind on-site mitigation and to make timely payments then it would be impossible to grant any PIPs or planning permissions. Therefore, there must be a mechanism to secure the provisions to allow a PIP to be granted. S106 can do this. Conditions are not suitable because they cannot secure financial amounts or terms to transfer land for future management purposes.

It is also unclear what will be granted by the local plan in terms of outline consent – currently allocating a site already establishes the principle. It is not clear whether a Local Plan will also be expected to grant means of access (which often form part of current outline permission). It is unclear how any conditions would be set in a local plan in terms of requirements for submission of further details to be agreed, and how this would relate to any follow-on reserved matters or ‘faster consent routes’.

This proposal also has major resource and financial implications for planning authorities. Site promoters will gain outline permission through the plan instead of the current pre-application and outline application process for which there are fees payable. There is no reference to this within the Planning White Paper.

(Also see response to Question 12 in relation to plan timescales).

There is concern about the area covered by a design code. If it is for a whole zone then this will not deliver the placemaking agenda, nor the “building better building beautiful” agenda. If it is site specific then this could be a step forward in delivering places with identity. The latter would be preferred, but it may not speed up the process in the way the government envisages. The level of detail required in a code is also key. Greater clarity is needed on zoning and how design codes fit into the zoning process. In addition, design codes need to be enforceable.

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

Response:

Not sure – it will depend on the details of these consent arrangements and what can be considered (not enough detail to form a definitive view on the basis of published information)

For renewal areas the suggestion appears to be effectively an automatic consent with prior approval; a fast track application or an LDO/NDO, apparently reducing the amount of ‘planning judgment’ applied to decision making. The White Paper indicates that this fast track approach will not lead to reductions in quality/design however, for this to be the case, significant additional work needs to be undertaken as part of the preparation of the LP/design code. This may not be feasible within the proposed timeframe for LP production.

There is uncertainty about protected areas such as Conservation Areas where they are surrounded by a Renewal Area. There seems to be a potential conflict with development being

automatically permitted within the Renewal Area and its potential impact on the protected area and more details are required on this.

Greater detail is needed about protected areas (e.g. countryside) which are not subject to specific landscape designations such as AONB and Green Belt and whether this system would provide them with equal protection.

Automatic consents would conflict with existing legislation relating to habitat sites.

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

Response:

No

Decisions on such significant issues should be determined locally and as part of comprehensive Local Plans.

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

Response:

Not sure (not enough detail to form a definitive view on the basis of published information)

It is not certain that the system will be less complicated with additional layers of types of consent. There is a major concern that there will no ability to agree an extension of time for determination of planning applications. The government has failed to recognize that many developers seek extensions of time in order for issues with their applications to be addressed or additional information provided. The suggestion that LPAs will be penalised by having to refund fees if decisions are not made within the statutory time is likely to be similarly counter-productive. Likely to result in an increase in refusals and appeals reducing certainty, quality and speed of decisions and therefore runs contrary to the aims of the proposed changes to the planning system.

Also depending on the LPA's scheme of delegation/Committee cycle where there is often a 4 week cycle, planning applications will need to be scheduled to be considered by the Planning Committee potentially at 4 weeks and 1 day post validation if they are to be determined within the statutory time period, giving limited time for consultees to respond/third party representations and potentially resulting in abortive work in preparing Committee reports.

It would also act as a disincentive for LPAs to seek design improvements which conflicts with the 'build beautiful' ethos.

The standardisation of technical supporting information (highway impacts, flooding) seems positive however there is a concern that use of design codes is too formulaic and could stifle innovation or prevent development from responding to the unique character of the area.

Whilst refund of application fee on Committee overturns allowed on appeal might initially look attractive, some decisions are finely balanced and this seems:

- a) to shackle local democracy (consistent with the White Paper's move away from 'localism' to more 'top-down' approach) and
- b) to penalise the LPA through loss of fees in instances where Members take an alternative view.

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

Response:

Not sure (not enough detail to form a definitive view on the basis of published information)

Whilst it would create opportunities to make local plans more comparable, it may restrict access

to stakeholders lacking the required systems or who find them difficult to use. The technology would need to have been developed and tested comprehensively before any obligation to use it is put in place.

Other parts of the consultation refer to the need for written statements e.g. design guides /codes, parameters etc. It is not clear how these would fit into the visual map-based element.

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

Response:

No

Stage 2 – 12 months seems an unduly short and overly ambitious timescale to prepare a plan to the level which is required to, in effect provide outline approval on a number of sites. What is meant by ‘outline’ in relation to a new local plan process is unclear in terms of how this equates to the current outline application process.

Within Bracknell Forest, taking account of the time between receipt of a pre-application to approval of an outline permission in some cases has taken up to 30 months on large complex sites (though across 4 large sites, this process has averaged about 18-19 months), and that is with the benefit of an associated site allocation policy. Prior to pre-app there would also have been extensive work undertaken by the site promotions team.

It is unclear whether the Stage 2 process also requires the equivalent of current Regulation 18 preparation stage in terms of engagement – which adds to the process in terms of time (preparation of documents for consultation, undertaking the consultation, and processing /taking account of responses).

Councils’ decision-making processes also need to be factored into the overall timescales. Under current ‘Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012’, local authorities are required to give 28 days’ notice of every key decision which is to be taken. Given associated lead-in times for internal review process etc, documents can be required to be finalised 6-8 weeks in advance of a programmed decision being taken, which would add further difficulty to completion of Stage 2 within 12 months.

It is also unclear whether there would still be a requirement for Statements of Community Involvement, and for plan preparation to be in accordance with adopted SCIs. For example in Bracknell Forest, the SCI sets out avoiding consultations during school holiday periods – which can impact on overall timescales in terms of avoiding summer holiday period.

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

Response: Not sure (not enough detail to form a definitive view on the basis of published information).

With national development management policies and allocations through the local plan process plus design guides and codes it is difficult to see what usefully remains for a neighbourhood plan.

In our experience, local communities often choose to engage in neighbourhood planning to ensure that decisions taken in their local area reflect their desire to protect what they love about where they live, and ensure that borough or national policies do not result in development which is out-of-keeping. It is difficult to see how standardising the planning system to a quantitative data-driven model could engage local communities to prepare neighbourhood plans in the first

place, particularly when the proposals refer only to “preferences about the form and appearance of development”.

Since neighbourhood planning is optional, it is unclear whether, if there is no appetite to produce design guides and codes, responsibility would fall to the LPA to produce one instead. Similarly it is not clear whether, if a LPA has adopted design guides and codes, a Neighbourhood Plan would supersede them where there are conflicts since it is a DPD. It is also unclear what the situation would be in an area where the local community at referendum did not support making the Neighbourhood Plan. A key element of the new planning system is that applications that are in accordance with standards are approved without delay, so the development industry is reliant on design guides and codes being in place in growth/ renewal areas.

A significant consideration is the cost of getting a Neighbourhood Plan through examination and referendum; this would be an expensive way of ensuring areas have design standards. This is particularly the case in areas with many parishes or large residential populations where the cost of the referendum can be extremely expensive (current grant funding levels do not come close to covering the cost – estimates for ONE of our parishes is for the referendum alone to cost in the region of £100k). It is not clear whether, if a qualifying body wishes to update their standards, the LPA would be expected to repeatedly cover the cost of examination and referendums. This is a particular concern if this process is to be extended and adapted for use in very small areas, including street level. The time and cost could be disproportionate to the benefits gained.

Further clarity is needed on what happens if a Neighbourhood Plan wishes to allocate land for development but it is not in a growth zone identified by the LPA, or conversely, they wish to protect areas in renewal zones. No detail has been set out for how conflicts between national, local and neighbourhood planning will be resolved.

Although the aspiration is for standards to be set through design codes, the proposals do not set out the scope of what the standards are. Accordingly it is difficult to conclude whether or not neighbourhood planning should be retained in the new planning system.

**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?**

Response:

Neighbourhood plans often take several years to produce. Whilst it is admirable to want to utilise digital tools to produce Neighbourhood Plans, like Local Plans, the lack of common agreed data standards will be a barrier to their production. They currently often rely on the robust and credible evidence base produced for a Local Plan; with this information no longer available to them, there would be increased onus on the qualifying body to produce/ commission necessary studies to justify their policy approaches in order to meet the basic conditions.

Whilst design is a policy area many Neighbourhood Plans look at, it is by no means the only topic. With Local Plans not including development management policies, it is likely the scope of neighbourhood planning would increase rather than ‘their content becoming more focused’, which will have associated time and cost implications. Neighbourhood planning has been promoted as a means by which local communities can have a real say in how their area is shaped and developed. Use of the term ‘preference’ is more akin to other processes such as Village Design Statements or non-statutory documents. If design is the primary reason for retaining neighbourhood planning, it would be prudent to look at other options to achieve this aim, which would be quicker and easier to update, albeit without the weight of a DPD.

The reforms state that the aspiration is for Neighbourhood Plans to be “written in a machine-readable format”. Whilst some qualifying bodies may have the in-house skills or funding to pay external consultants, many will not be in a position to embrace digital technology to this extent. Furthermore, as volunteers they may feel that this is too onerous and simply produce the Neighbourhood Plan as they see fit, which could put LPAs in a difficult situation of either having to retrofit a Neighbourhood Plan to digitisation requirements (with associated time and cost implications, and potentially against the wishes of the community) or be in a situation where a made Neighbourhood Plan is simply not fit for purpose. Whilst amended Neighbourhood Planning Regulations could assist to some extent, this could reduce community engagement in the process, counter to the Government’s aspiration.

The fundamental issue for an increased role for neighbourhood planning remains that it is a voluntary process, and as such, ownership of how they are developed and the level of technology used, will lie with the volunteers.

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

Response: Yes

There are hundreds of thousands of unimplemented planning permissions across the country. If the government is serious about increasing the delivery of housing then this is an area that should be urgently addressed. Measures outside of the planning system are likely to be required such as imposing some form of tax on permissioned sites.

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

Response:

A lot of development has been undertaken in the borough, mostly by volume housebuilders who are building much the same houses all over the country. They have a product that they feel is tried and tested e.g. the Redrow Heritage range, that financially they do not want to alter. This is not building better or building beautiful. We can work on placemaking by creating a setting within a streetscene for that product. But this is not creating places that fully respond to context and define the character of specific parts Bracknell Forest. Design codes could be a way of requiring volume house builders to create unique developments with clear identities. However, this will only work if developers are required to follow codes, and if codes include the level of detail that is needed to produce change and a requirement to look to contemporary designs where there is no clear existing character or vernacular within an area or site. There is always a concern in relation to pastiche and replication, rather than innovative high-quality design responses from the volume housebuilders.

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

Response:

The Council Plan identifies the need to reduce our impact on climate change and sets out strategic themes around the three pillars of sustainability, including economic resilience, protecting and enhancing our environment, communities, care and education. The economic, social and environmental objectives of the NPPF are carried forward within planning policy, with the following key issues identified in the Borough:

- Climate change
- Air quality (impact on human health & biodiversity)
- Risk of flooding (including surface water & groundwater)
- Water quality
- Retaining high standards of open space
- Fragmentation of habitats

- Nature conservation (including international sites)
- Provision of housing, including for an ageing population
- Affordability of housing
- High levels of car dependence
- Pressure on the transport infrastructure
- Regeneration of the town centre
- Balance of the economy

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

Response: Not sure (not enough detail to form a definitive view on the basis of published information).

The White Paper states that government will publish a National Model Design Code to accompany the National Design Guide. It will be useful to see what is included in this, which it is presumed will be a framework document for future design codes coming forward for an area. The impression is given on page 46 that this could also extend to guiding street design and parking solutions which is useful. There is also reference to a revised Manual for Streets which would be welcomed.

Design codes work well and provide clear guidance for a developer on a site. However, to be successful they need to have a high level of detail and be enforceable.

Clarity is required on how enforceable design codes would be within this new strategy and on whether codes would be site specific for every site allocated in the plan, or cover a wide zoned area.

If design codes are to work, and achieve beautiful places, then they need to be site specific and have a high level of detail, including items such as appropriate fenestration, roof tiles, porch details etc.. This would enhance a planning authority's placemaking abilities and therefore should be welcomed. It is important for LPAs to produce design codes.

Proposal 11 is positive regarding some of the issues above. But the text leaves the door open for developers to produce design codes. If this was the case, clear guidance should be produced to ensure that codes are developed in partnership with planning authorities and will need planning authority sign off.

Care is needed in relation to community involvement. There is a tendency for communities to resist new contemporary design and architecture and to want traditional (as they see it) designs that are often a pastiche.

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

Response: Not sure (not enough detail to form a definitive view on the basis of published information).

A central government arms-length body would be needed to support the new way of working with a design-led approach. However, it would have to be well resourced in terms of officers and designers and it would need to have regional/area offices. We have experience of how over stretched Homes England are currently.

The Council considers that there is also a need for this new government body to put areas of excellence in touch with others, to share how they work and achieve excellence with other LPAs around the country. Sharing information across boundaries and regions is vital to moving forward on the building better building beautiful agenda.

It should also be noted that this is not just a planning agenda. Highway, drainage, lighting engineers etc. all have to be engaged in relation to a new way of working. Volume housebuilders also need to have design and placemaking expertise engaged to work from within, to promote the agenda from Board level downwards.

Requiring a new designated Chief Officer for design and placemaking at each LPA would cause resource issues at a time when fee income would potentially be reducing. There is also some doubt about whether there is adequate expertise at the appropriate level available to fill such posts if they were created.

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

Response: Yes

They require greater resources to work with LPAs to raise design quality, particularly on large strategic sites.

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

Response: Not sure (not enough detail to form a definitive view on the basis of published information).

If a design code is in place, then developers should follow it and submit plans accordingly. If they are not in accordance with a design code then proposals should be refused. It is unclear how this “fast track” implementation changes anything. Currently, if proposals come forward that are in accordance with a design code, this already leads to progression through the existing system quicker. However, housebuilders must comply with codes. Production of a code is not simply ticking a box, it is a commitment to build as set out in the code. If developers don’t follow the codes (as happens all too frequently) then the process is slowed. Simply having a code in place should not automatically fast track an application. There will still need to be a detailed assessment process to ensure that codes are actually being implemented. However, having codes in place as a general rule is a good thing and should speed things up.

There is concern around design “guides” and whether such guidance will be enforceable. Legislation is necessary to give planning authorities the ability to enforce and refuse applications in cases where this new way of working is not followed effectively.

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

Response:

The Council has many infrastructure priorities which include avoidance and mitigation measures for the Thames Basin Heaths Special Protection Area, open space, recreation, affordable housing, sustainable transport, drainage, highways, community facilities and education provision. Emerging issues such as air quality impacts may also require mitigation. Together these support growth in the Borough and provide the necessary and relevant provision for the residents and visitors to Bracknell Forest.

In the first instance it is necessary to replace/mitigate any impact on infrastructure caused directly by the development.

Following this we look to implement local and national policies to mitigate the impact of development. This Council’s policies do not prioritise one form of infrastructure over another. However, we do have stronger policies and justification for some infrastructure over others particularly where there are statutory requirements

While there is an urgent need for affordable housing there are nationally imposed constraints that can reduce the Council's ability to secure it such as the vacant buildings credit and viability assessments, the removal of grant and the reluctance of some developers to provide social housing.

It has been difficult to plan for health infrastructure partly due to reorganisations within health providers and the lack of firm guarantees at the time allocations or applications are made.

Furthermore, the borough is heavily constrained by habitat sites (as defined in the NPPF) which require mitigation to be secured as an absolute pre-requisite to the grant of permission. This has provided protection for the habitats sites and provided new biodiversity benefits but has also resulted in major positive implications for local residents where many large new open spaces (SANGs) have been provided for their recreational benefits including their long-term funded management.

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

Response: No

If a blanket tariff is introduced it is likely that it would be set at the lowest viable rate which is likely to have serious implications for the funding available, particularly for affordable housing. Any such rate must be locally determined taking account of market situations. Using Gross Development Value to set the new levy could generate further complications unless it is locally tested for viability and there is no negotiation that could cause further delay.

There also needs to be a mechanism in place to secure land, in-kind works, buildings, ongoing management and maintenance, commuted maintenance sums and the terms for provision of Affordable Housing and other infrastructure. The new levy would only replace financial contributions and there is not sufficient account taken of the numerous other functions of a S106.. The S106 does this effectively. It is claimed that delays are due to negotiations but no evidence is provided to substantiate the assertion. In fact matters causing delays often include numerous interested parties, complex land ownership situations, title problems, insufficient guidelines surrounding the form and capabilities of a S106 and poor support and guidance on the application of viability outcomes.

If S106 of the TCPA is rescinded there will need to be an alternative contractual tool which secures non-financial elements. The key advantage of securing requirements by s106 agreement is that provisions within them can be enforced upon successors in title where relevant.

Any alternative tool will need to act in a similar format, leading to the questioning of whether the government truly believe there is reason to remove the use of S106 agreements. Should the replacement system have as many 'teething problems' as CIL then we could be in a similar situation for quite some time.

A simple tariff route replacing s106 and CIL has been mooted before and not acted upon because of issues such as the risk that income for infrastructure could reduce to the point at which developments become unsustainable and therefore unable to be approved which could stifle growth

The proposals create significant risks for both LPAs and for developers. If the funding that can be secured for infrastructure is not known until the development value is clear that will require decision makers to determine applications without any certainty of whether its impacts can be effectively mitigated. This goes to the heart of sustainability and to the acceptability of development to local communities. In the case of Bracknell Forest nearly £60 million has been

received from developer contributions in the last 5 years. This has been vital to enable the delivery of houses and growth in our Borough. This does not include in-kind provision of affordable housing, schools, open space, transport infrastructure etc. that have also been provided. Proposing that the LPA receives funding later in the process is likely to lead to delays in the provision of essential infrastructure. The suggestion that Councils should borrow against potential future tariff income to forward fund infrastructure is unacceptable given the financial position many local authorities now find themselves in and the risk that developments may not go ahead. There is a further risk to the planning authority in forward borrowing against development funding, if the developer then slowed down development or went bust, the authority would be borrowing and paying interest for a longer period of time.

Residents of this Borough have reluctantly accepted high levels of housing growth. In the many public consultations held on planning documents the often repeated message is that the houses are needed but only if the infrastructure is provided. Removal of S106 obligations will result make it impossible to demonstrate with any certainty what infrastructure will be provided, how and when. Collection a new levy at occupation will further delay the delivery of infrastructure, this is a large frustration of many residents. The infrastructure needs to be delivered earlier in the development process. It cannot be assumed that local council's will be willing, or have the in house resources, knowledge or experience to deliver infrastructure. Essentially the delay is being passed from the developers to local residents who will become further disillusioned with the planning system.

There are also questions about how the valuation of development will be determined and any disagreements resolved in order to agree the charge for a particular development.

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

Response: Locally.

In order to ensure that rates are set that reflect local market conditions it is important that they are set locally. A nationally set rate would need to be set at a low rate that would harm the ability of Councils in more prosperous areas of the country to deliver essential infrastructure where existing infrastructure is already very stretched.

Any new levy must consider administrative boundaries, impacts on smaller developers, different classes of development. The government should ensure that any draft legislation is thoroughly thought through and trialled in different parts of the country before coming into effect nationwide.

**22(c). Should the Infrastructure Levy aim to capture the same amount of value overall, or more value, to support greater investment in infrastructure, affordable housing and local communities?**

Response: More value

Any Infrastructure levy needs to take into account that few local authorities have sufficient funds to upgrade and improve existing infrastructure as well as deliver new infrastructure. The aim should be to fund the delivery and ongoing maintenance of sufficient infrastructure to enable the impacts of new development to be properly mitigated for the benefit of existing and new local residents. The existing infrastructure funding available is not sufficient to meet all needs and this is built into the current system through the need to demonstrate a funding gap in order to justify the introduction of CIL.

The government regularly emphasises its intention to maximise investment in infrastructure, whether this comes through an Infrastructure Levy alone or combined with further funding sources, investment in infrastructure will need to increase.

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

Response: Not sure (not enough detail to form a definitive view on the basis of published information and there are significant risks involved for the LPA)

Councils already have the ability to borrow, Bracknell Forest has had to do this to fund the delivery of a secondary school. However, if there was specific guidance and support which enabled transparent borrowing against the levy this would assist with the delay between the impact of the development and the receipt of the levy (assuming that it's paid on occupation). However, there is a significant risk to the Council in borrowing against future tariff receipts that may or may not materialize and the size of which is likely to be unknown.

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

Response: Yes,

The same principle applies that those who benefit from the grant of permission whether through an application or via exercising PD rights, should contribute to the mitigation of its impacts. Currently Councils and by extension, Council tax payers are effectively subsidising such developments in terms of their infrastructure needs.

In particular it would help ensure that housing provided under PD rights would make a proper contribution to local affordable housing needs. It should be noted that this authority strongly believes that some permitted development rights to ensure that changes such as office to residential are properly considered. This is not just to ensure any impacts on infrastructure are mitigated but also to ensure that they are in locations that are suitable for residential development. The ability to create new homes at the back of a trading estate remote from any facilities without the need for planning permission clearly runs counter to the government's stated aims around place-making.

**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?**

Response: Yes

Although more focus should be placed on tenure, type, size and quality as well as meeting specific local housing needs. It is not as simple as making a comparison between numbers. It is also important that legislation ensures that affordable housing remains as such in perpetuity, this is particularly important as this is normally secured via S106 at present.

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

Response:

It should be delivered in kind on site where possible, developers are experienced and equipped to deliver homes, and economies of scale dictate that this is a more efficient way of delivering homes. In-kind payments may be welcomed by stock-owning authorities or those who build themselves or have close working relationships with Registered Providers (RPs) who build. However, contributions are often not akin to what the developer could provide on the ground for the same monetary amount.

Section 106 has been successful at securing large sums and numbers of affordable homes from developers - to put into perspective how important Section 106 is to affordable housing delivery, last year in Bracknell Forest 49% of all affordable homes were delivered

through Section 106. The White Paper does seek to retain positive features of Section 106 including a high priority for affordable housing, preference for on-site delivery, and (albeit reduced) flexibility in the system to account for local priorities, such as tenure mix. However, whilst the White Paper provides some assurances about prioritising affordable housing, there are concerns as to whether the overall level of this (possibly nationally determined) new levy will match current Planning contributions achieved through CIL and S106. The cake can only be cut so many ways and there will be increased demand on the levy.

Where the provision of Affordable Housing (AH) is to be included within the levy (akin to a contribution towards off-site delivery of AH) then the levy needs to account for the local land costs as well as the build costs and 'on-costs' associated with delivery AH. Not purely the build costs. Many local Authorities are no longer equipped in terms of human or physical resources to build their own affordable homes and so it is not as simple as handing over the money and responsibility.

If it is the government's intention that developers can offset the difference between the market price and sale price of AH to an RP against the liability of the levy, there need to be minimum prices placed on the sale of AH. This would ensure that larger developers are not selling to their 'own' RPs at a rock bottom price to secure higher reductions in levy liabilities. Many developers now have RPs under their umbrella companies.

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

Response: Yes

This could be a cap on the discount that can be applied per AH delivered (or other in-kind delivery of infrastructure).

Any approach also needs to mitigate the lack of funding for infrastructure further down the priority list due to the statutory obligations of the Local authority to provide housing, maintain highways and drainage and provide education. Transport, Social, Green and blue Infrastructure work together to provide a good place to live. The Government is placing a large emphasis on delivery of beautiful places, this does not come about from residential architecture alone.

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

Response: Yes

Affordable housing should be built with high levels of sustainability, durability and quality in mind. It is not good enough to build mass levels of housing, they need to withstand the test of time. Maintenance and management costs can be minimised by effective design. It is very easy for these points to be overlooked.

Quality housing will serve generations and sustainable housing will reduce living costs for the most 'squeezed' in society. Bracknell would support the requirement to construct Affordable Housing to a recognised standard (not a new one, we don't need further delays!)

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

Response: Yes

If the proposed levy is intended to replace much of what was previously provided via S106 then this additional scope should be reflected in greater flexibility. However, while the potential attraction of allowing receipts to be used to provide normal council services or reduce Council is

recognised, there is a risk that such an extent of flexibility could undermine the provision of infrastructure needed to achieve sustainable development.

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

Response: Yes

In order to protect and enhance the supply of affordable housing it is important that any increased flexibility around spending the Infrastructure Levy is coupled with a safeguard which ring-fences a quantum of the levy for this purpose.

**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?**

Response:

Nationally set development management policies could make it more difficult for LPAs to adopt policies to meet the needs of particular equalities groups in their areas that could vary across the country. The move to increase the use of digital technology in engaging communities in planning could help involve younger people who currently are generally poorly represented in consultation responses. There will be a need to ensure that those without access to necessary technology are not disadvantaged.