

22nd October 2019



Rt Hon Robert Jenrick MP,
Planning for the Future Consultation,
Ministry of Housing, Communities and Local
Government,
3rd Floor, Fry Building,
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Warwickshire County Council

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Dear Minister,

RE: Planning for the Future

I write to submit the Warwickshire County Council response to the "Planning for the Future" Consultation. Thank you for the opportunity to respond to the proposals for changes to the planning system.

The Council's response has been created by a process of engagement with all our Members. The Council recognises that the proposals are far-reaching and envisage substantial change in the current planning system, and the Council supports much of the government's ambition and direction in this regard. However in our full response we identify several substantial concerns with the proposals, which the Council hopes will be considered fully. Chief among these are the following:

- The Council opposes the suggestion of placing all land into three area types, and the associated accelerated planning permission routes. Whilst the Council supports increased emphasis on the Local Plan, it is not possible to capture the nuanced considerations and detail in pre-written Design Codes and associated documents for every site for the lifetime of the Plan. There must be retained an opportunity for Local Planning Authorities to make case-by-case decisions based on latest data and situations at the point of application.
- The Council also does not support the new timescales for Local Plan development, particularly given the increased finality that Plans are proposed to now provide, which pushes a substantial volume of work to the front end of the process. The proposals for transition timescales, when every Local Planning Authority in the country would be calling on the same limited number of external resources, are particularly unrealistic.
- The Council recognises that the processes to agree S106 arrangements could be streamlined but does not support a nationally derived Infrastructure Levy as an alternative. S106 arrangements recognise the particular impacts of a given

development and are therefore always fairer to local communities who need specific infrastructure built. They also deliver a number of other essential mitigations.

- The Council also rejects proposals to place more financial risk onto the public sector, and specifically the proposal that Councils should finance the later payment of Infrastructure Levy (in comparison to CIL or S106) through upfront borrowing, which would place a substantial burden on revenue budgets.
- The Council does not support nationally derived housing requirements for each Local Planning Authority, as this overrides the well-founded strategic planning and collaboration arrangements currently in place to manage local housing need.
- The proposals will place substantial burden onto Councils during a period when Council finances are under extraordinary pressure. To drive through the scope of change envisaged in the consultation, particularly within the timescales proposed, government must recognise the need to for full central financial support. Councils will be dual-running old and new approaches for a lengthy transition period but do not have the resources to do this.
- Similarly, while the Council supports the ambition to digitise planning processes wherever possible, this must be led and funded centrally to really deliver the joined-up, transparent system envisaged.

The Council also notes that there is much missing from this consultation document which limits our ability to understand and consider the proposals. In particular the Council's response makes general notes about the following:

- The consultation makes no reference to two-tier local government. Several of the proposals need explaining and have particular consequences in this context. The Council requests that as proposals for planning reform are developed, full consideration is given to how proposals would operate within the two-tier framework.
- The consultation does not discuss the planning process for mineral and waste sites. Equally, there is no consideration of the planning decisions made under "Regulation 3" processes, whereby a planning authority assesses its own planning applications.
- More generally, the narrow focus of the consultation is house-building and planning for housing. There is also inadequate consideration of other land uses such as commercial, retail, public sector, community and industrial (including the previously mentioned minerals and waste locations). The Council would in particular like to see a future approach that gives equal weighting to economic regeneration as a key outcome of local planning, and finds it difficult to fully assess the proposals in this consultation without this broader context.
- Beyond some general discussion of cross-boundary issues, the consultation makes little reference to the important role of strategic planning. The Council requests that the role of, and framework for, strategic planning must be fully explained within future consultation stages.

I trust that you will find the Council's response useful and consider it fully in your next steps. Warwickshire County Council looks forward to full further engagement in the remainder of the process.

Yours sincerely,



Monica Fogarty
Chief Executive

White Paper: Planning for the Future

Warwickshire County Council response

General Comments

Thank you for the opportunity to respond to this consultation. Warwickshire County Council (“WCC” or “the Council”) recognises that these proposals are far-reaching and envisage substantial change in the current planning system, and the Council supports much of the government’s ambition and direction in this regard. However in the following answers we identify several substantial concerns with the proposals made in this consultation, which the Council hopes will be considered fully.

The Council also notes that there is much missing from this consultation document which limits our ability to understand and consider the proposals. In particular the Council notes the following:

- The consultation makes no reference to two-tier local government. Several of the proposals need explaining, and have particular consequences in this context. For example, it is not clear whether the proposed powers associated with the new consolidated infrastructure levy (e.g. ability to borrow against anticipated revenue, removal on restrictions on use) would apply to all tiers or just to the Local Planning Authority. There is also no mention of statutory and other consultees situated within the upper tier authority, who play an important role in the planning process, both in the determination of planning applications, but also the preparation of local plans. This includes specialist inputs from Transport Planning, Flood, and Education amongst others. The Council requests that as proposals for planning reform are developed and further consultations or similar processes are launched, full consideration is given to how proposals would operate within the two-tier framework.
- The consultation does not discuss the planning process for mineral and waste sites, for which WCC is the local planning authority. It is not clear whether the proposals here include mineral and waste planning – i.e. that they would be fully integrated within a single, comprehensive Local Plan covering all uses of land – or whether, as in the current system, they would continue to be dealt with in a separate but linked process. The Council’s consultation responses assume the latter, but much more clarity still needs to be provided on this issue and how the different processes would interlink. If however it was the intention that this consultation includes the future for mineral and waste planning as well, the Council requests that a further consultation be carried out which fully explains this context and allows further responses from stakeholders.
- Equally, there is no consideration of the planning decisions made under “Regulation 3” processes, whereby a planning authority assesses its own planning applications. The Council requests that future consultations make explicit reference to changes implied by its proposals to these processes.
- The narrow focus of the consultation is house-building and planning for housing. There is inadequate consideration of other land uses such as commercial, retail, public sector, community and industrial (including the previously mentioned minerals and waste locations). As the planning reform process continues, the Council urges government to present proposals for all kinds of land use together, since this is how communities actually experience and think about their locality.
- The Council would in particular like to see a consultation that gives equal weighting to economic regeneration as a key outcome of local planning and finds it difficult to fully assess the proposals in this consultation without this broader context. Whilst

the long-term effects of the coronavirus pandemic on our economy are not yet clear, it is already inevitable that the current operating models for town centres and other employment sites need substantial review; the government must recognise the role of planning in enabling proactive responses to such changes and design planning reform to give planning authorities the appropriate powers to make a difference.

- Beyond some general discussion of cross-boundary issues, the consultation makes little reference to the important role of strategic planning. Every planning authority must consider its neighbours' demography, forecasts and plans, and understand how these dovetail with their own, to ensure the best outcomes for all communities and individuals (none of whom live out their lives entirely within one planning authority area). Strategic planning helps to ensure that the big picture is being considered within Local Plans, and prevents market failure in the form of incorrect supply or inadequate infrastructure provision. The Council requests that the role of, and framework for, strategic planning must be fully explained within future consultation stages.

The Council would also comment that the way the current planning framework approaches the two-tier system of local government (in operation across much of the country) creates substantial conflict of interest which does not always deliver the best outcomes for our communities but which are not addressed clearly in the consultation. For example, upper tier authorities are not the final decision-makers in s106 agreements and must rely on the lower tier local planning authority to represent them, despite the fact that typically the upper tier's financial ask will be substantially greater than, and of a broader strategic impact than, that of the lower-tier authority. With developers keen to limit their liability for infrastructure funding, and pressures on the local planning authority from government, local activists and the developer, this can lead to situations where an upper tier authority's requirements are given less priority and weight in final agreements. This rewards developers for "gaming" the system and damages relationships between all parties, particularly between Councils aiming to serve the same communities. The Council would therefore urge government to consider how it can prevent such situations, regardless of the progress of the changes included in this consultation.

Finally, the Council notes that change on the scale proposed in this consultation will create substantial resource demands, particularly during the transition phases where councils will be "dual running" the old and new systems. The Council wishes to emphasise that the timescales in the consultation do not seem realistic, given the limited resources of all planning authorities and indeed of the planning sector (and associated specialist teams supporting planning processes) itself – though new burden funding is welcomed, it must be recognised that the ambitious timescales proposed here are simply not deliverable. A pragmatic approach to the speed with which local planning authorities must recreate their Local Plans would make the transition much more manageable and deliver the outcomes that the government is seeking. As an upper tier authority, WCC would have to support the recreation of five Local Plans within 42 months, which would require an unprecedented level of resource input across multiple teams (e.g. flood, ecology, archaeology, highways, education etc). It is also essential that, to fully embed any new approach, shift the skills portfolio within the relevant professions and move to a leaner, more transparent and deterministic system, the government must commit to fully resourcing the impacts.

Please note: in some responses below, the Council has simply noted that it does not wish to respond to the specific question, where the question is not directed to organisations in the Council's position.

For brevity, this response document has been created by extracting the questions from the main consultation document.

Consultation questions and WCC answers (in bold)

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

The Council does not wish to respond to this question.

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

[Yes / No]

Yes, as per WCC's statutory role.

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

[Social media / Online news / Newspaper / By post / Other – please specify]

The Council supports a move towards a more digitised engagement system so long as it remains simple for our communities to access and operate. It should also be completely integrated with planning software used by planning officials and committees to ensure efficient operation; as much as possible should be automated to keep costs low and to keep information up to date.

However, the Council would note that creating, implementing and moving all interested parties to an online system for the whole planning process will be very costly and take substantial time, and would like to see the government come forward with realistic proposals for delivering and resourcing this centrally.

4. What are your top three priorities for planning in your local area?

[Building homes for young people / building homes for the homeless / Protection of green spaces / The environment, biodiversity and action on climate change / Increasing the affordability of housing / The design of new homes and places / Supporting the high street / Supporting the local economy / More or better local infrastructure / Protection of existing heritage buildings or areas / Other – please specify]

As a statutory body with broad strategic powers and scope, the Council has a wide range of priorities including all of those listed above - and more. For example, in addition to those listed above, the Council would require that:

- **The system should put the cost of the necessary processes onto those who benefit most; similarly risk should be carried primarily by the private sector, who can benefit from the upside outcome**
- **Tensions between different parts of the public sector (upper tier/lower tier, NHS, education, third sector etc) should be designed out of the system**

- **New infrastructure (such as highways) must conform to standard specifications (whether or not it is proposed to be private) and not place unsupportable maintenance burdens onto the public sector**
- **Infrastructure need created by a development must be considered within a methodology which takes into account current provision in the locality**

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

[Yes / No / Not sure. Please provide supporting statement.]

No.

The Council supports proposals which simplify Local Plans while strengthening their standing, as these are documents into which a substantial amount of officer, Councillor, community and other stakeholder time and resource is put, but which can provide less clarity and certainty than intended. WCC therefore supports proposals for increased transparency and in particular which make it easier for those without a substantial development or planning background to understand both how decisions will be made and to contribute to that process.

However, the Council does not agree that the proposal to separate all land into the three types of *Growth*, *Renewal* and *Protected* recognises the practical complexity of existing and future land use across the country, and the decision-making that must be carried out at a local democratic level to ensure best outcomes for our communities. The Council has identified several potential pitfalls from this proposal which indicate it would not achieve the government's stated aims.

Without the definition of "substantial development" which the consultation proposes would be enshrined in future policy and other further detail, it is difficult to clearly understand the delineation between the *Growth* and *Renewal* land types, particularly in the instances where land in *Renewal* areas may qualify for automated planning permission by meeting pre-determined conditions. The Council has real concerns that this aspect will not be easily understood by communities and that this may lead to imperfect behaviours on the part of many participants in the process.

For example, it could be foreseen that, in steering the future development of a mature town with a need for regeneration, a planning authority would want to create a high number of zones across the town, varying between *Growth* and *Renewal* on an almost street-by-street basis, each with its own Design Code and mini-masterplan. This would not necessarily be the wrong thing to do where a local authority has a clear vision for the change needed in that town centre; but the "patchwork" of zones could be extremely confusing to local communities and highly offputting to commercial developers who would see their options as too limited. This may prevent engagement or cause substantial pressure and delays at Plan-making stage, which in turn may motivate planning authorities to instead just create broad-brush zones covering whole towns; this would deliver simplicity and options for stakeholders and perhaps speed Plan-making, but lose all nuance or control for the planning authority.

Part of the issue here is that the difference between *Growth* and *Renewal* as designations is not very clear. Given that, with adherence to Design Codes and other stipulations, developments in *Renewal* areas could have as quick a route to full planning permission as those in *Growth* areas, it would appear that the

intended distinction is more to do with volume of development per developer or investor than any other factor. The phrase “*gentle densification*” needs definition.

The consultation does not provide sufficient information to assess what tests must be met for land to be designated as *Protected* i.e. will the land need to meet a government definition (which could include a pre-existing designation such as AONB) or will the planning authority have freedom to designate any land into this type where it does not support future development?

There is also insufficient information in the consultation as to how decisions would be made regarding the compliance of a development with the land type and Design Code for the location. Presumably the intention is a checklist-style approach, whereby officers and/or Members would be provided with assurance by developers that their proposals comply with the Local Plan’s designation and conditions for the site. This may in practice not create much more efficiency than the current system, though perhaps more decisions would be made by officers acting under delegated authority than by planning committees.

Separating all land into the three types at the start of the Local Plan period would also not consider the knock-on impacts of multiple developments or other changes over the life of the Plan, so proposals coming forward in the latter years would have to be considered in exactly the same way as those in the earliest years without any recognition of the impact of what has happened in the intervening period. An obvious example is ecology; a survey from three years ago cannot be relied upon as a meaningful assessment of the species present on a site now. Concern over the impact of this factor would be likely to lead to a shortening of Local Plan durations, as the only mechanism giving planning authorities the opportunity to take account of change. This will hamper the government’s ambitions for a more efficient, transparent and predictable planning system for all stakeholders.

Furthermore it is not clear how the infrastructure and other public sector service consequences of a development would be determined, and how this would be taken into account in a system where so much is determined in advance. There is little detail on what the government expects to see in the detailed Design Codes associated with areas and sites, and so it is difficult to understand what case-by-case decision-making would still take place – whether, for example, the proposals would allow the highway authority to consider the impact of specific applications on nearby major transport routes. A Local Plan may designate an area for *Growth*, and specify that its Design Code would allow a range of mid-scale commercial development types, but these could still have materially different effects on the road network. The Council would need to understand substantially more about what would be included in Design Codes – the scope, level of detail, opportunity for intervention and representation, etc – before it can be satisfied that it will be able to carry out its statutory and democratic responsibilities.

As a wider point, a key benefit of the current case-by-case decision making approach is that planning authorities, communities and statutory consultees only need to consider specific proposals in depth; the proposals in the consultation would imply all those individuals and organisations would need to consider everything that could be proposed, and make a pre-emptive decision on whether it would be supported. This cannot be an efficient approach.

Despite the desire for shorter, simpler Local Plans, the need for site-by-site specific conditions – which will be felt all the more important given the more

binding nature of Local Plans – may well mean that in practice these documents only become lengthier than their current formats. Whilst much of this content be included in Design Codes or Masterplans instead of the main Plan, to most stakeholders this will be an irrelevant distinction; it will still be necessary for them to read it all. The benefit of an approach which focuses on the principles of future decision-making is that far less content needs to be captured (and evidenced, consulted on, tested etc) at the outset.

The Council would be more supportive of the alternative proposal within the consultation that some land be designated as *Growth* while other areas remain within the scope of current planning and development management processes. However several of the points made above and in following answers about the work needed to even create the capacity for near-automated decision-making would remain even in this proposal.

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

[Yes / No / Not sure. Please provide supporting statement.]

Not sure.

The Council understands the benefits of consistent national development management policies and their removal from duplication in Local Plans wherever possible. However, these will need to be comprehensive to ensure that local conditions can be adequately addressed. Otherwise, the government should consider potential scenarios where local policies would be appropriate and clarify how this would fit into the emerging framework.

The Council is concerned by the suggestion that a reduction in site survey/site specific information would be needed. For example, the flood risk and drainage constraints are different on every site to requirements such as material/building design. This also impacts on the Ordinary Watercourse Land Drainage Consenting process as bespoke advisories are added based on the watercourses on site and if these are not picked up this will lead to an increased risk of flooding due to unconsented/badly designed structures. It will not be practicable to provide all of this oversight in advance.

The Council also notes that there are a number of examples within the existing policy framework that need strengthening (for example, in the definition of surface water flood risk). The high quality and completeness of the national framework will be essential in making it possible for local planning authorities to rely on these policies.

Finally the Council notes that a number of other documents underpin existing Local Plans e.g. Local Flood Risk Management Strategies, Local Transport Plan etc. The relationship of these documents to the new format Local Plan and associated Design Codes etc need to be clarified, and where digitised access is to be provided, the system should help stakeholders locate these too.

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?

[Yes / No / Not sure. Please provide supporting statement.]

Not sure.

The consultation does not contain sufficient information about what would be included in the new consolidated test.

However the Council recognises that abolishing the Sustainability Appraisal system and developing a simplified process for assessing the environmental impact of plans could make it easier for Local Planning Authorities to deliver Plans, as would a slimmed down assessment of deliverability.

Furthermore, the Council supports the requirement that “Plans should be informed by appropriate infrastructure planning, and sites should not be included in the plan where there is no reasonable prospect of any infrastructure that may be needed coming forward within the plan period” as part of this test.

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

Within a two-tier system, clear dialogue between authorities needs to be preserved through working groups or other means. The suggestion in the White Paper that the “*new-style digital Local Plan would also help local planning authorities to engage with strategic cross-boundary issues and use data-driven insights to assess local infrastructure needs*” is only part of the solution. Interactions between people – though fully supported by digital systems – must remain at the core of strategic planning for it to be effective.

Furthermore, lower tier planning authorities must have a responsibility to fully recognise the strategic implications of development and growth in their area within the decisions they make. Upper tier authorities need to be able to deliver infrastructure that works (consistently and efficiently) for the whole of their democratic region, and wider in many cases. The tests for Local Plan soundness must include evidence that upper tier authorities – both those sharing land and those which neighbour onto land within the planning authority’s scope – have been engaged and are in agreement with the infrastructure provision within the Plan. Part of the “sustainable development” test should include asking those upper tier authorities to confirm their satisfaction with the provisions within the Local Plan.

8(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.]

No.

The current system creates an indicative target which local planning authorities consider within their planning methodology; however they may adjust this figure for a wide variety of reasons.

In Warwickshire, for example, the housing needs met by some current Local Plans exceed the current standard method figures in recognition that bordering local areas which are materially important to Warwickshire’s economy (e.g. Coventry)

may find it more challenging to supply their “share” of the housing need. It is better for Warwickshire’s economy therefore that the figures are inflated above the very local “share” for each District or Borough, and are instead set according to a more strategic view of overall housing need and potential across the region.

In other areas adjustments may be made (to increase or decrease the figure) in response to a range of equally legitimate factors.

Simply setting a standard method for each planning authority that does not provide the opportunity for intra-regional redistribution, or to otherwise take account of relevant and justifiable local factors risks the creation of meaningless, undeliverable Plans.

An alternative approach in the consultation suggests redistribution of the requirement where joint planning arrangements exist. The Council would broadly support this, assuming the vision here is an analogy of the pooling approach within the current Business Rates retention system. Several principles of this system, such as the need for planning for on larger scales than the boundaries of a single authority, transfer directly from the Business Rates scenario to the Planning System and so it may well serve as a useful concept to apply here as well; furthermore the system has been designed to incentivise the outcomes desired by government. If such a system were to be developed, its methodology, fairness and consistency would need to be considered as part of the “sustainable development” test for each individual Local Plan. Clarity is also needed to define what kinds of “joint planning arrangements” would be able to access this flexibility; the Council would suggest that all areas, not only those with mayors within combined authorities, should be able to propose a pooling approach where it can be evidenced that there is a strategic planning argument for it.

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?

No.

The consultation does not provide sufficient information to assess the intentions of this approach – it is impossible to interpret whether, for example, areas with pre-existing substantial urban development would be expected to provide *more or less* housing in a future calculation. Assuming that the latter approach is the intention, this would presumably have the effect of urbanising far more of the English countryside – shire counties such as Warwickshire would lose their existing identity and characteristics that currently provide a key difference for residents (and which make such areas attractive to investors, including housing developers). This cannot be the right way to distribute new housing as it ignores the existing diverse characteristics of areas.

In any case the proposals seem likely to be too simplistic; regardless of how the existing urban areas in a planning area are interpreted, it will always be necessary to understand the urban areas across the strategic area to accurately interpret the ability of that whole area to provide more housing. Residents do not necessarily (or even typically) live within the planning authority where they work; they will contribute to the economy in multiple areas within a radius of their home location and further afield. It is too much of a simplification to look within a single District or Borough’s area to understand the current housing provision available to residents, or to understand what would attract future residents (and developers).

Furthermore, without the wider context of other land use – and potential use – in an area, simply measuring the current housing provision does not provide a full picture of either land availability or demand. Other existing uses, particularly commercial and industrial, must be taken into account as well.

Affordability is certainly not an indicator of historic under-supply; quite apart from the points made above about residents' economic activity across a wide area, house prices move in response to a large number of external stimuli which can be nothing to do with supply. The consultation provides no detail as to how "affordability" will be assessed but any kind of snapshot view at a particular point in time would be very misleading. The government would need to consider how it would recognise relevant local circumstances in its assessment of this factor, such as the closure of a major local employer – this may cause house prices to drop without any change to housing need or supply.

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

[Yes / No / Not sure. Please provide supporting statement.]

No.

Please see answer to question 5 for relevant content.

The Council does not feel that it would be feasible to pre-determine sufficient detail (for inclusion in the Local Plan, Design Codes and Masterplans) to ensure that the best interests of the community are served by future development in *Growth* areas if there is no further opportunity for case-by-case scrutiny. To even attempt to provide the necessary level of definition would require an extraordinary degree of advance work from a huge number of stakeholders – from within the County Council alone, this would involve the infrastructure, regeneration, ecology, archaeology, landscape, highways and flood management teams, all of whom would need to imagine all potential developments within an area and consider the implications. For some teams – highways and regeneration for example – the details of each potential development could make a materially important difference to whether the scheme would be supported, to the infrastructure impacts on local government and other public services etc. It is simply not possible to capture all of this within pre-written Local Plans, Design Codes and Masterplans.

The Council also believes it is likely that this approach would reduce community engagement rather than heighten it. The new approach suggests a meaningful role for community and democratic input only once every ten years – given the proposed minimum Plan duration – which is insufficient for communities and their elected representatives to be truly involved in the management of development.

9(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.]

No.

Please see answers to questions 5 and 9a for relevant content.

The definition and assessment of “*Beauty*” is hugely important to understanding the proposals in relation to *Renewal* areas and permitted development. The consultation talks about “*maintaining visual harmony*” which implies a presumption that areas in the *Renewal* category will be restricted to those where more housing of very much the same as existing would be welcomed and prioritised. However the Council would anticipate that local planning authorities in Warwickshire and elsewhere would want to specify areas as *Renewal* to indicate a strategic preference for “*gentle densification*” rather than “*substantial development*”, but also to change the nature of the housing in that area to move away from the existing common forms.

The Council can see advantages in an approach based around form-based development types that would be locally created and owned, to provide clarity for all stakeholders as to what future development in *Renewal* areas would most typically look like and to reflect local character and preference. However the Council would not support the use of such types in a way that made innovation and change fundamentally more difficult for developers or homeowners to achieve.

Furthermore the Council notes that buildings are not the only aspect of an area’s visual harmony or beauty. Other infrastructure, landscape, commercial provision, public realm etc all need to be specified in a sympathetic way in Plans and Design Codes for the government’s ambition in this respect to be delivered.

The Council does agree that *Protected* areas should continue to follow more stringent planning application processes.

9(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.]

Not sure.

Substantially more information needs to be provided as to the scope and mechanism for this route. The Council assumes this would be a rare situation. However the Council would generally prefer that decision-making remain as local as possible, and with the full democratic accountability that local authorities provide through their constituencies and elected Members.

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

[Yes / No / Not sure. Please provide supporting statement.]

Yes and No.

The Council supports the ambition to speed up decision-making as there are clear advantages for all participants. It particularly supports the creation and implementation of nationally consistent digital systems to support every stage of the process, and agrees that this increases opportunity for engagement by all stakeholders. However the Council notes the resource implications of developing and implementing such a system and emphasises that this must be delivered and funded centrally. It will also be necessary for new burden funding to take account

of any long-term increased costs on councils as providers of key datasets, such as Historic Environment Records, that may need both creating as complete sets for the first time and then being kept up to date.

The Council does not support an overly simplistic approach to “incentivising” local planning authorities to make decisions within statutory timescales (especially since in fact, the proposals offer only punishments). In the majority of cases, decisions that take longer to make do so for good reasons outside of the planning authority’s control, and it would be nonsensical to presume by a simple fining mechanism that the planning authority could always have reached a high-quality decision any faster than it has done. Equally, decisions taking longer time to consider are typically the more complex examples, which means that automatically granting planning permission to such cases would be directly counter-productive to the aims of the planning application process. This should particularly be considered in the context of the general proposals which imply that it is only the more unusual or challenging applications which would still come through a full permission process. The “incentives” suggested in the consultation would in fact reward planning authorities who chose to do a less complete job in the case of more complex applications. This does not create the best outcomes for communities.

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

[Yes / No / Not sure. Please provide supporting statement.]

Yes.

The Council recognises the need for increased digitisation within the planning process, and particularly to simplify and increase engagement. To maximise these benefits for all participants a single national system needs to be developed and made mandatory for planning authorities and developers to use.

However the Council notes that there will be substantial resource implications of creating and then transitioning to the new system, and it would look for this to be delivered and funded by central government.

12. 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.]

No.

The Council supports the ambition to speed up the Plan-making process but does not see the proposals as realistic for any participants (including developers, planning authorities, and inspectors).

Compared to the current average Plan-making time (seven or eight years), 30 months would represent an extreme change – and only to do the same work as currently done. However, the proposals elsewhere in the consultation would substantially increase the work needed within the Plan-making process, to front-load much of the decision-making that is currently left to case-by-case decisions through the planning application process. The 30-month proposal is undeliverable in this context.

Instead the Council suggests that government avoid setting a legislative timetable,

but leave the performance of individual authorities to be assessed through the existing democratic framework. A light-touch reporting regime which helped voters and communities assess pace in their local planning authority could be considered as a way to support this.

The consultation also doesn't outline how often the new Local Plans would need updating. The government's intention to make Local Plans more meaningful must there be accompanied by a requirement for each planning authority to review its Local Plan at least every five years. Reviews should be undertaken sooner than five years where there has been a significant change in circumstances, for instance where issues with land supply have been identified through regular monitoring.

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

[Yes / No / Not sure. Please provide supporting statement.]

Yes.

However the Council notes concerns regarding the capacity within communities to build Neighbourhood Plans; this has led to a somewhat patchy distribution of Plan progress, scope and quality across England as the creation of Neighbourhood Plans often relies on the efforts of a small number of dedicated volunteers.

Community capacity for involvement – and particularly during any transition phase between planning systems – is not likely to increase in the future.

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?

The Council supports ambitions to provide Neighbourhood Planning groups with integrated systems to help them connect into work being done by Local Planning Authorities to build wider Local Plans. However the government must recognise that few neighbourhood groups have the resources to make an investment in this area; the government must provide substantial funding and support for this transition.

Neighbourhood Planning must sit cohesively with Local Plans for both to be effective; the new framework must make clear what responsibilities and opportunities fall to whom. The process should be seen as a logical flow from one level to another; it must be clear that Neighbourhood Plans provide further detail and guidance to supplement but not replace that in the Local Plans. Setting a realistic timescale for the development of Neighbourhood Plans after the completion of a Local Plan would help, as would clear guidelines for how decisions are made where there is no Neighbourhood Plan.

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

[Yes / No / Not sure. Please provide supporting statement.]

Yes.

The Council agrees that the failure of developers to deliver the investments they have promised creates substantial frustration for communities, businesses, and planning authorities. In general, the consultation makes a presumption that it is the speed of decision-making within the planning system that is preventing the delivery of housing. This may be one relevant factor, but developers have in the past and continue to land bank (for their future development pipeline, to increase share price or to keep prices stable where several developers would otherwise be in competition in an area), and any new planning system needs to ensure that developers deliver on a housing trajectory or face financial penalties. There are many sites within Warwickshire where, following outline consent, developers have sold on parcels to different housing developers, and the delays this causes are nothing to do with the planning process.

The Council would therefore support a wide range of measures in this space, both incentivising and punitive. For example, a developer's build-out history could be taken into account in the achievement of planning permission; where developers have not achieved a locally set minimum rate over a given number of years, the presumption of outline planning permission in *Growth* areas could be withdrawn, forcing the developer to make an application specifically detailing how they will do better in the new development. Planning authorities could also adjust fee rates for high-performing developers, on the basis that the risk to the planning authority's decision-making is lower where build-out is faster.

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

[Not sure or indifferent / Beautiful and/or well-designed / Ugly and/or poorly-designed / There hasn't been any / Other – please specify]

The Council does not wish to respond to this question.

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

[Less reliance on cars / More green and open spaces / Energy efficiency of new buildings / More trees / Other – please specify]

As an upper tier authority the Council has a wide reaching ambition and perspective on climate change, and our work is in line with the UN Sustainable Development goals. In a survey to develop the Council Plan 2025, residents prioritised increasing re-use, recycling and compost rates and reducing waste. All Council decisions take into account environmental consequences, and these consider the emissions the Council's activities generate, the emissions the Council has indirect control over (e.g. in the supply chain) and the emissions generated by residents and businesses in the county.

The Council supports the ambition that development should deliver "net gain" in sustainability terms, and would expect this principle to be duplicated across a range of themes e.g. flood risk.

17. 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.]

Not sure.

The Council supports the principle of accelerated and/or simpler consenting pathways and recognises the role Design Codes, Guidance and Masterplans could play in supporting that ambition. The Council also supports the intention to ensure community involvement in their preparation, although it is noted that this places further substantial burdens on both planning authorities and community groups to engage with these processes fully, in limited timescales.

However, the consultation does not provide sufficient information about the intended scope and coverage of these documents. In particular it is unclear to what extent the local infrastructure and other public realm/landscape needs would be specified. As a county council, WCC needs a clear mechanism through which it can specify what would be required as a result of development. This specification would need to include land required (which could reduce the available land if certain other triggers were reached e.g. if a new school were to be required when and if new housing figures reached a certain value, either the Plan, local masterplan or design code would need to specify which plot(s) of land would be reserved for the school rather than commercial development and how developers could anticipate the requirement as they design their site) and, where the infrastructure or public realm would be created/built by the developer, the standards for its provision e.g. new roads within a housing development. This is complex to consider for each site and again the need to anticipate all possible development in advance would present a huge demand on limited council resources.

The Council therefore needs to understand more about how the government envisages this process taking place without the Design Codes becoming massively unwieldy documents and with a proportionate investment of resource by councils.

Tied in with the proposals is a new Manual for Streets. The Council would welcome consultation on this document when a draft is available.

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

[Yes / No / Not sure. Please provide supporting statement.]

Not sure.

The Council broadly welcomes proposals to support councils in implementing the requirements of the new planning system, but needs to understand more about the actual roles and responsibilities of the proposed new body to assess its added value. Similarly, inadequate information is provided about the potential statutory responsibilities of the chief officer for design and place-making.

In particular, the consultation does not make clear whether the proposal for a chief officer for design and place-making would only reflect each council's planning authority responsibilities (i.e. so that upper tier authorities such as WCC would

have a chief officer for design and place-making in relation to mineral and waste planning only) or whether every authority would have a chief officer for design and place-making with full scope over every aspect of the planning system in the relevant geographical area. If the former is the government's intention, the Council needs further clarification as to that individual's responsibility to reflect the needs of the other tier of government, and how that other tier can contribute to their leadership on design matters; if the latter is the intention, it would be necessary to understand how these officers from different tiers would be expected to work together without unnecessary duplication and potential conflict.

19. 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.]

Yes.

The Council believes it is important that all stakeholders in the planning system, particularly those with wide scope and material impact such as Homes England, work towards the same ambitions.

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

[Yes / No / Not sure. Please provide supporting statement.]

Not sure.

Please see answer to question 9(b).

The Council would like to see further information provided on the information to be captured in Design Codes and Masterplans, and to understand the timescales for their development in relation to the Plan-making process.

The Council also notes that this appears to be directed at housebuilding. Further information is needed on how this would be applied to other built development including infrastructure and minerals and waste development. This would also enable the Council to understand any financial implications on associated with 'beautification' that will need to be factored into its future construction programme.

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

[More affordable housing / More or better infrastructure (such as transport, schools, health provision) / Design of new buildings / More shops and/or employment space / Green space / Don't know / Other – please specify]

As a county council, WCC has a responsibility to ensure the provision of much of the supporting infrastructure and so it prioritises securing the funding, land and other statutory support for this.

However the Council also has wider objectives towards economic development, community support, climate change, public health etc. It therefore does not have a

single priority to answer this question with.

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?

[Yes / No / Not sure. Please provide supporting statement.]

No.

The Council supports streamlining the processes by which infrastructure funding is negotiated and secured, as all parties can benefit from increased transparency and certainty. However several aspects of the proposed new levy mechanism cause serious concern.

The consultation does not acknowledge the wide range of legal obligations and mitigations secured within a s106 agreement; for example biodiversity commitments, flood prevention responsibilities, land transfer and s38/s278 arrangements. The mechanisms by which such obligations would continue to be secured need full description as part of a future consultation.

The proposal to connect the value of the new levy to a fixed proportion of development value above a set threshold completely divorces the payments due by the developer from the actual cost of provision of infrastructure as a result of their activity and from the local need. This is potentially unfair to developers, and may disincentivise small-scale developers in particular as they will be unable to spread the cost across a wide profit base of different schemes. It also provides councils, and therefore communities, with no guarantee that the required infrastructure can be funded. Areas with higher deprivation levels (and lower house prices) would receive less infrastructure funding, but the infrastructure would not fundamentally cost less. Equally possible is the scenario where some areas of the country, probably those with more buoyant housing markets in the first place, substantially “over collect” contributions, which would potentially work directly against government’s ambitions to rebalance and strengthen regional economies. Government may need to consider the introduction of a redistribution system to ensure fairness and equity and to allow all councils with similar responsibilities to meet them from broadly the same funding sources.

This risk is heightened by the proposal to connect the levy payable to final value at the point of occupation; this would be subject to a number of micro and macro market pressures over the lifetime of the development which could well mean that a development which starts out with the expectation of high value increase ends up with a much lower figure in reality. However, the associated infrastructure costs would not have changed; this puts the risk entirely onto the public sector which cannot be fair to communities and taxpayers. Developers are effectively incentivised to “game” their developments by declaring or engineering a point of occupation which minimises their levy payments.

The mechanism by which the value of the levy would be determined is not clear; the consultation indicates the setting of a value-based minimum threshold but what this would be set at or how it would be determined is not detailed. The scaling of the threshold with the scale of development needs to be carefully considered; the costs of increased infrastructure do not scale linearly with number of new houses. Instead, certain sizes will trigger completely different

infrastructure needs – larger developments are likely to need whole new schools, for example, whereas smaller developments may simply mean the addition of a classroom to an existing site.

Furthermore, developments of any scale will have multiple actual occupation points as individual dwellings are sold and occupied; is the intention that a levy payment be made as each individual sale reaches contract completion? This would lead to substantial administrative costs for all parties.

For these reasons, the Council believes it is essential that any new mechanism to speed up s106 arrangements retains a direct connection between the pre-existing infrastructure provision in an area, the specific impacts of an individual development and the funding due from the developer. It is also essential that the authority with responsibility for provision of the relevant infrastructure has direct access to the funding related to that infrastructure; the CIL regime has caused conflict in instances across the country where upper tier and lower tier authorities do not agree on its distribution and prioritisation. Giving the decision-making rights on the CIL, and potentially the new Levy, to lower-tier authorities only as local planning authorities (apart from the Neighbourhood Share), risks too narrow a geographical focus and a bias towards the services within the lower tier's responsibilities.

The Council also fundamentally does not support a mechanism that delays payments from developers to any later point than in the current system.

As an additional point, the Council notes that all parts of the country are increasingly relying on Highways England or government funding for major infrastructure schemes. The consultation does not acknowledge this or indicate how it would be taken into account in the new levy's mechanism. Agreement for the delivery of this large infrastructure is key to allow major developments to take place and so this is an essential element of the framework which must be clearly considered and integrated.

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

[Nationally at a single rate / Nationally at an area-specific rate / Locally]

If such a system is used, the Council would prefer very local rate setting, as this would allow local planning authorities to make some adjustment for the actual likely costs in their area, taking into account both local market factors and the existing level of infrastructure provision.

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

[Same amount overall / More value / Less value / Not sure. Please provide supporting statement.]

Not sure.

The Council would welcome more funding to provide better infrastructure for its communities. However it recognises the necessary balance to be struck between giving public funding and giving developers a commercially workable system. Any

increase in developer contributions could ultimately work against the ambition to provide ensure the supply of housing at an affordable price. Further detail is therefore required to understand the government's proposal here.

22(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.]

No.

Councils already have the power to borrow for affordable and prudent capital financing within the Prudential Framework so it is difficult to understand what new power is intended here. Most importantly, borrowing is not free; if a council had to forward fund all its infrastructure costs it would have to cut other services or increase council tax to meet the revenue costs of borrowing. For WCC, spending on average £20m of developer contribution per annum, the annual cost of forward funding this amount through borrowing would create a £1.6m hit to our revenue budget, for 25 years. The council would therefore not only carry the risk of non-payment of the levy in the future but also have to absorb the immediate cost of borrowing for the privilege.

The Council supports continued freedom in its borrowing powers therefore, but does not support the suggestion to pass cashflow risks, and the cost of financing those, to local authorities. A council will have no real choice about when to build infrastructure – its statutory responsibilities would not allow it – but it may still feel the borrowing is unaffordable within its medium term financial planning.

The consultation also does not make clear which authority would have this new power in two tier authorities; would it apply to upper tier authorities if they are not collecting the levy?

23. 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.]

Yes.

With the expansion to permitted development scope, it will be important within any system to prevent a loophole opening up which would allow developers to argue that their development does not create an increased infrastructure need.

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.]

Yes.

This would be a welcome improvement to the current CIL approach which does not include any provision for affordable housing.

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?

[Yes / No / Not sure. Please provide supporting statement.]

Not sure.

The two key priorities in this regard need to be that affordable housing is delivered, and that all participants have certainty about the funding requirement for other infrastructure provision through the levy or other mechanism. Any proposal to include affordable housing provision must not be at the expense of the other obligations placed upon developers.

Further detail needs to be provided on how the proposed mechanism will not interfere with the provision of other obligations, especially in two tier areas where different councils have different responsibilities.

24(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.]

Not sure.

Whilst more details need to be provided, the Council supports the intention of this suggestion.

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?

[Yes / No / Not sure. Please provide supporting statement.]

Yes.

The Council agrees with the implied concern that in-kind provision standards may be lower and would in principle support mechanisms to prevent this. An option would be to include a clear specification for such provision with the Design Code and related guidance, but this would need to be backed up by other mechanisms to be enacted on delivery, such as the proposed right to revert back to cash contributions if no buyers can be found – though in such circumstances it may be difficult to prove that the market disinterest is purely (or sufficiently) a quality issue.

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

[Yes / No / Not sure. Please provide supporting statement.]

Not sure.

The Council always supports the opportunity to retain more flexibility in its funding.

However the Council notes some concern with the proposals. Infrastructure funding is typically treated as capital financing, and accounted for (with specific exceptions outlined in advance in s106 agreements) as capital grant. The suggestion that the levy could be used to improve services or reduce council tax would, within the current public finance regime, imply that it would be treated as revenue funding. This would be a substantial change to the current local government finance framework.

Whilst the Council does not necessarily oppose this – revenue funding can inherently be used more flexibly – this would be one-off funding, and hence councils would need to think very carefully before using time-limited funding to reduce recurring income streams, such as council tax. The Council would expect government to discourage short-term financial planning with built-in risks like this.

Furthermore the suggestion that councils could borrow against future levy income would not then make sense as councils are, quite rightly, statutorily prevented from borrowing for revenue funding. The proposals therefore seem confused.

The Council also does not agree with the proposal that the Neighbourhood Share of up to 25% of the new levy be transferred to authorities of the scale of parish councils. This would lead to allocations of tens of millions of pounds going to parish councils with substantial developments in their boundaries; too often the parish council does not have the capacity to provide real oversight and control over this level of funding and expenditure. This could lead to wasteful expenditure at best, and abuse at worst. Only larger councils have the staff and Member capacity to handle the amounts of money involved effectively and legally.

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

[Yes / No / Not sure. Please provide supporting statement.]

Not sure.

Shire-based councils are typically keen to ensure the provision of suitable amounts of affordable housing and would not need the "incentive" of a ringfence to deliver it. However the Council recognises this is not the case country-wide.

Further detail would need to be provided on how such a ring-fence would be defined and monitored. Any proposal which did not allow for recognition of local situations and solutions would not be supported.

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?

No.