

For publication

**'Planning for the Future'
Response to Government Consultation on Planning Reform**

Meeting:	Cabinet
Date:	20 th October 2020
Cabinet portfolio:	Economic Growth
Report by:	Strategic Planning & Key Sites Manager

For publication

1.0 Purpose of report

- 1.1 To report on the government's consultation on changes to the planning system and agree the council's response.

2.0 Recommendations

- 2.1 To agree the response set out in appendix A as the Council's response to the Government White Paper 'Planning for the Future'.
- 2.2 To authorise the Strategic Planning Manager, in consultation with the Assistant Director for Economic Development and Cabinet Member for Economic Growth, to make such changes and additions to the response as are necessary to ensure a comprehensive response to the consultation.

2.3 For the Council's Strategic Planning and Key Sites Manager to submit the response electronically before 11:45pm on 29th October 2020.

3.0 **Background**

3.1 On the 6th August 2020 the Government published a White Paper, "Planning for the Future", to consult on changes to the Planning system.

3.2 The White Paper sets out the basis of a comprehensive review of the planning system that would affect all parts of the current system and presents the most significant changes for a generation.

3.3 Responses to the consultation must be submitted by 29th October 2020.

4.0 **Summary of proposed changes**

4.1 The proposals cover all aspects of the planning system. The following is a high-level summary of the proposed changes.

4.2 Throughout the Paper there is an emphasis on increasing the digitisation of planning and the availability of data and documents, and greater engagement with communities.

4.3 The White Paper proposals is structured around three 'pillars':

1. Planning for Development
2. Planning for Beautiful and Sustainable Places
3. Planning for Infrastructure and Connected Places

Pillar 1 – Planning for Development

4.4 The proposals place an emphasis on plan making rather than 'discretionary' decision taking. It retains Local Plans at the

heart of the system, which should be visual and map based and supported by a new standard template (not available at this time). Plans should be significantly shorter in length and limited to no more than setting out site or area-specific parameters and opportunities.

- 4.5 Local authorities and the Planning Inspectorate will be required through legislation to meet a statutory timetable (of no more than 30 months in total, or 42 if you have a recently adopted plan) for key stages of the process, and there will be (currently unspecified) sanctions for those who fail to do so. New Plans should be in place by 2023. In reality, once the time for consultation and examination of the Plan is taken out, LPAs will only have 18 months to engage with communities and draw up the Plan. Plans will continue to be reviewed every five years.
- 4.6 The current system of 'Tests of Soundness' and Sustainability Appraisal would be replaced with a single 'Sustainable Development Test' (detailed of which are unspecified) and simplified and standardised evidence requirements.
- 4.7 The 'Duty to Co-operate', which currently guides interaction between LPAs on strategic cross boundary issues would be removed, but no indication is given of any mechanism to replace this or address strategic planning issues.
- 4.8 All land within an LPA area will need to be identified in one of three categories in the Plan:
- **Growth** – Land suitable for substantial development
 - **Renewal** - existing built areas where smaller scale development is appropriate
 - **Protected** – Areas where Stringent development controls will be in place to ensure sustainability

- 4.9 **Growth** areas will include sites for comprehensive development, including new settlements and urban extensions, and areas for regeneration such as urban or industrial regeneration sites. National legislation will set out a definition of 'substantial development' but no indication is given in the paper of where this threshold would be set.
- 4.10 These areas would effectively have outline approval for development granted upon adoption of the Plan. The Plan will be able to set out suitable uses within these zones and design codes, based on a national model (which has not been published at this time). Developments would be brought forwards by Reserved Matters submissions or Local Development Order. Applications for uses not allowed by the Plan would need to submit a planning application as normal.
- 4.11 **Renewal** areas will cover densification and infill of residential areas and town centres. There will be a presumption in favour of development in these zones for the uses specified in the Plan. There will be a new permission route (details of which are currently unavailable) giving automatic consent for pre-specified development types that meet design and other prior approval requirements and a faster planning application process for other types of development.
- 4.12 **Protected** zones will include Green Belt (the Paper does not set out any changes to the Green Belt regime), open countryside that is not zoned for 'Growth', national and local wildlife and landscape designations, areas at risk of flooding, and Conservation Areas. The Local Plan will set out what development is acceptable in these areas.
- 4.13 Local Plans will no longer contain detailed development control policies, which will instead be covered by a revised National Planning Policy Framework.

- 4.14 The range of planning applications considered by councils will be significantly reduced. Planning application time limits should be a deadline, with no extensions of time and proposals to refund fees or automatically grant consent if they are not determined in this time frame. This will be supported by an improved validation process.
- 4.15 The information required to support applications should be reduced to a single planning statement of no more than 50 pages, with more standardisation of supporting technical information (eg: flood risk, highways impact and heritage assessments).
- 4.16 Planning authorities will be encouraged to make more use of design codes, accompanying Local Plans.

Pillar 2 - Planning for Beautiful and Sustainable Places

- 4.17 The White Paper envisages a 'fast track for beauty'. The government will publish a National Model Design Code (which will also formalise the role of the Manual for Streets) and LPAs will be encouraged to develop Local Design Codes with input from the community. Schemes which comply with local design codes should have swift approval and masterplans and site-specific design codes could be required by condition of permission in principle granted in Local Plans.
- 4.18 It will be possible to redevelop existing dwellings through permitted development (possibly involving some prior approval process). The Paper proposes pre-approval of "popular" and "replicable" designs (although no further detail is given on this, it is not clear for example who would prepare these designs).
- 4.19 Sustainable design for housing is largely left to the Future Homes standard, which is to be progressed through the

Building Regulations. There is no reference to an equivalent for non-residential buildings.

Pillar 3 - Planning for Infrastructure and Connected Places

- 4.20 The Paper proposes removing Community Infrastructure Levy and Section 106 planning obligations and replacing them with a single, nationally set levy based on development value. This would only be paid by development over a nationally set threshold (CIL is currently liable on all development). There would be more flexibility than currently around funding.
- 4.21 Affordable housing would be paid for out of this levy rather than secured directly through development. A proportion of the levy would also be used to fund plan making.

5.0 Implications of the White Paper and proposed response.

- 5.1 The proposed response to the consultation is set out in Appendix A to this report.
- 5.2 Overall, the White Paper is characterised by a lack of detail on key points. For example, no indication is given of how the new 'Sustainable Development Test' for Local Plans would look, the Model Design Codes or how the new Levy would be calculated. This makes it difficult to comment on how the proposals might work. There is also a reliance on further information to be provided to make the system work, such as a new NPPF, model design codes, model local plan and evidence templates, standardise templates or technical information etc, and progress on other areas of guidance and legislation like the Future Homes Standard and Environment Act. Given the pressures currently on government, this does raise concerns over whether all the elements needed for the proposed system can be in place in a timely manner.

Pillar 1 – Planning for Development

- 5.3 The White Paper maintains an emphasis on Local Plans being produced by Local Authority's, which is welcome. The role of Plans is strengthened, with them becoming able to establish the principle of development, removing the need for the submission of outline planning applications for development that accords with the Plan but retaining the role of LPAs in determining the principle of development outside the Plan proposals. This does have implications for the structure and resources allocated to Local Plan preparation (addressed below).
- 5.4 That Local Plans will need to identify all land with their boundaries for one of the 'zones' is welcomed in principle as it will provide certainty for the community and developers. The success or otherwise of the zoned approach will depend on the level of local flexibility that LPAs have to set out details such as suitable uses and conditions within the proposed zones, and the resource available to prepare, for example, site-specific masterplans and design codes.
- 5.5 The zones also do not reflect the full range of roles that Local Plans currently undertake. While it is proposed that Plans will no longer contain development control policies, with these being set at a national level, there is a risk of this resulting in bland policies that do not reflect local circumstances. They also do not reflect one of the other key tasks of Local Plans in safeguarding land for infrastructure (such as roads, schools or, specific the Chesterfield, the canal) – whilst the 'Protected' zone may provide a route to do this it would be better if this role was explicitly set out.
- 5.6 The timescales proposed (30 months/ 2.5 years) for preparation of Local Plans are very tight compared to the borough's successful experience in preparing Local Plans, which typically have taken 3-5 years. Whilst this may be

mitigated somewhat by not having to prepare Development Control policies, it is the process of site selection and allocation and community engagement that is the most intensive. Coupled with proposals for greater levels of engagement and the need to prepare more detailed design codes, the resourcing of this stage of plan making will need further consideration.

- 5.7 The paper does not give any details of the proposed 'Sustainable Development Test' that would replace the current Tests of Soundness and Sustainability Appraisal of Local Plans. It is therefore not possible to assess the possible implications of this other than to welcome any simplification of the current SA process, which is costly, time consuming and replicates process already undertaken in plan preparation.
- 5.8 The Paper proposes removing the legal Duty to Co-operate, which is currently the only formal mechanism for strategic planning, but does not propose a replacement, instead asking for suggestions from consultees.
- 5.9 It is proposed that the response supports the retention of the plan led system, but seeks further detail on how key aspects should operate and asks that council's should be allowed to tailor individual zones to local needs and that the potential for overlap between 'Protect' and 'Renewal' areas be considered.

Pillar 2 Planning for Beautiful and Sustainable Places

- 5.10 This section feels poorly developed with little in the way of details of how the mechanisms will operate. There are no details of the National Model Design Code or the extent or operation of permitted development.
- 5.11 No indication is given of how "popular and replicable" designs would be established or who would prepare them.

- 5.12 With any attempt to define 'beauty' in the built environment there is a risk of ending up with proposals that are the least offensive to the largest number of people, and stifling genuine innovation in design and technologies. Establishing a 'fast track' for 'beautiful' buildings also ignores the need to properly consider other aspects of buildings, such as amenity, highways and sustainability, which must be given time for proper consideration.
- 5.13 It is disappointing that the Paper leaves sustainable construction to the Future Homes standard (it is unclear when this standard will come into force), given that the Code for Sustainable Homes had originally envisaged that by 2020 new homes would be net zero carbon. There is also no information provided on how commercial and non-residential development will be expected to address climate change.
- 5.14 The proposed response is that the extension of permitted development rights is not welcomed, given the failures of the approach that have already been demonstrated, that further detail is needed on all aspects of this pillar, and that there should be a clear targeted commitment to reaching zero-carbon development for all forms of development (not just residential).

Pillar 3 - Planning for Infrastructure and Connected Places

- 5.15 There are a number of concerns over the proposals for changes to the infrastructure funding regime. The Council implemented CIL in 2016. The Council's CIL was set locally and only charged on housing and town centre uses, reflecting the marginal viability of some commercial uses, and was set at zero for the Staveley Corridor Strategic site in recognition of the abnormal cost of this regeneration scheme.
- 5.16 It is surprising that the white paper proposes a further review of the system of developer contributions, given the relatively

recent independent CIL Review Group's 2016 CIL Review that fed into the 2017 Housing White Paper.

- 5.17 Funding affordable housing through the new infrastructure levy immediately raises questions of prioritisation, where affordable housing competes with other strategic infrastructure necessary to support new growth and development for funding from the same pot. The White Paper's conclusion that there will sufficient money in the pot for affordable housing needs to be supported by further evidence to demonstrate that this will be the case and satisfy concerns that there may be shortfalls in infrastructure provision as a result of competing interests in areas like Chesterfield where viability is known to be marginal.
- 5.18 Legal agreements are used to secure more than just developer contributions, and so it is likely that they will still be needed in some form.
- 5.19 The most immediate concerns relate to viability. Under the new proposals, site viability would not be taken into account. There is therefore a question over how the rate could reflect local circumstances, including the benchmark land values used to judge what is necessary to encourage a willing landowner to make their site available for development. The new Levy will be calculated based on the final value of a development (or an assessment of the sales value where the development is not sold). Consequently, it would appear that it would not take into account the often higher costs of delivering brownfield or other sites with larger abnormal costs. This is a critical issue for areas like Chesterfield where the local plan allocates strategic regeneration sites such as Staveley & Rother Valley Corridor which have acknowledged viability issues.
- 5.20 Setting the Levy nationally is fraught with difficulty. There are risks with setting the levy either too high or too low. If the levy

is set too high, it may prevent development coming forward in certain locations. If the levy is set at a low level such that it captures all but the most unviable developments, this could result in development 'under-paying', resulting in necessary infrastructure being unable to be provided.

- 5.21 The reality is that not all developments deliver uplift in land value. Developers in locations with no uplift may benefit from falling beneath the minimum threshold proposed but the effect would be that local authorities in such areas, potentially including Chesterfield, would have less levy revenue to direct towards providing necessary infrastructure. It would be more appropriate to consider whether a national fund should be providing this investment in areas that do not generate the additional values but do need investment in strategic infrastructure.
- 5.22 Given the required focus on identifying deliverable sites to meet local housing requirements, the lack of viability testing might make it difficult to rely on housing yield from more challenging, less viable sites (such as those requiring costly on-site infrastructure) and focus on easier, but potentially less sustainable options. If the Levy is based on final development value this would appear to raise the potential that high quality design would have to pay more than a poorer quality scheme, introducing an undesirable and unintended disincentive to raise design standards (contrary to the stated and welcome objective on design elsewhere in the white paper).
- 5.23 As currently applies with CIL, the proposed new rate would be based on the applicable rate plus indexing, on the date of planning permission being granted. However, whereas CIL is payable within a set timescale of commencement, the new levy would not be payable until occupation. ('Occupation' would need be defined in legislation to avoid the extensive legal debates and costly delays.) Whilst this would introduce a delay in receipt of CIL revenues on each development, it would

overcome current difficulties on certain schemes where smaller developers have reported difficulties in payment of CIL in advance of receipts from sales.

- 5.24 Clarification is needed on whether the value will be fixed when an implementable permission is granted or on the date the local plan is adopted and granted outline planning permission.
- 5.25 The suggested response is that any levy should continue to be set locally to ensure it reflects local viability and sales issues. If set nationally, a proportion of the levy above a set threshold in high value areas should be set aside to support the development of low viability sites and locations.

6.0 **Resources**

- 6.1 The Paper is clear that it still expects Local Planning Authorities to remain at the heart of the reforms and that planning departments will need the right people with the right skills and necessary resources. Planning departments will be expected to be outward looking and engaging pro-actively with developers and local communities. This latter element is already a strength in the borough with regular engagement with developers (including through our Housing Delivery Manager) and a focus on delivering growth.
- 6.2 However, with the clear shift of emphasis towards the development of clear local plans and design codes it will be necessary to look at the structure of the department and the skills available and consider whether there are gaps that need to be addressed or strengthened, and whether a refocusing of roles will be needed.
- 6.3 There will need to be an investment of time and resources in developing the ICT functions of the Planning Teams. The Strategic Planning Team already has significant skills in GIS but this is limited by the lack of a Corporate approach to mapping

and spatial information; and increased use will need to be made of the capabilities of existing systems such as idox in recording spatial and development information. The government is working with pilot LPAs on developing the digital approach, such as Hackney in London, and these experiments will need to be monitored closely.

- 6.4 The Paper proposes that each LPA should have a Chief Officer for Design and Place Making, and this proposal will need to be monitored through the process of the White Paper moving into legislation.

7.0 **Financial Implications**

- 7.1 Planning is currently funded through a combination of planning fees (Development Management) and general funding (Strategic Planning), plus a small contribution towards the administration of CIL from the CIL receipt (5%).
- 7.2 The White Paper proposes that the cost of operating the new planning system should be principally funded by the beneficiaries of planning gain – landowners and developers – rather than the national or local taxpayer. Whilst the principal of this is sound, the mechanisms set out are weak and poorly thought through.
- 7.3 It should also be noted that, as Local Plans will be expected to grant permission in principle, the Council is effectively being asked to cover the costs of preparing and determining an outline planning application for all allocated sites as part of preparing their Local Plan. Costs that would normally be borne by a developer/landowner (in less time than a developer would usually take). Estimates from the Impact Assessment prepared by the Government for implementation of Permission in Principle in 2017 showed the typical cost of preparing and submitting a full planning application at approximately £25,000 for a minor site, including fee costs.

The cost for full planning permission for a major site (based on 100 dwellings) was approximately £40-£50,000. On top of this the council would not receive the current fee income that would be received from outline or permission in principle applications.

- 7.4 Although the local setting of planning fees has been repeatedly considered by government, the Paper proposes that planning fees would continue to be set nationally, which is disappointing and does not reflect the varying costs of dealing with different applications in varying locations (such as areas with complex issues such as the legacy of mining and heavy industry such as Chesterfield).
- 7.5 It is proposed that a 'small' proportion of the income from the new approach to development contributions should be earmarked for the preparation and review of Local Plans and Design Codes. The proportion is not set out in any detail, or any confirmation as to whether this will be expected to cover the full costs of plan preparation. This is a significant concern as is far from clear whether the new levy would result in a greater or lesser capture of development value than CIL. Given the costs of preparing the level of detail in Local Plans set out in the White Paper it is highly unlikely that this would be the case. This appears to present significant dilution of the role of the proposed levy and leave council's covering the costs of operating the system. There is a significant risk that the levy would either not provide enough to support the Strategic Planning function, or that the need to fund Strategic Planning would result in insufficient funding being available to deliver essential infrastructure.
- 7.6 An alternative would be planning fees for the technical design/reserved matters stage should be set at a higher level that reflects the additional costs of plan making activity. This would to an extent cover the fact that LPAs are effectively taking on the burden of preparing outline planning

permissions for landowners/ developers, with a significant saving in costs to them. An alternative would be to allow Council's to place a charge on land relating to the costs of preparing allocations, that could be recouped when land is sold.

7.7 The Council may also need to reconsider its current position of not charging for pre-application advice.

7.8 It is important to recognise that front loading community engagement and preparing design codes and conditions for areas zoned for Growth and Renewal, if it is to be effective and successful, is likely to require significant investment in time, money and resources, including site investigations and technical studies. An option could be to work with landowners and developers promoting sites to commission and carry out such studies, but this comes with the risk of the plan making process being captured or appearing to be captured by the interest of those most able to fund such work.

8.0 **Legal Implications**

8.1 The reforms would require a complete overhaul of the legislative and policy framework underpinning the planning system, with new primary and secondary legislation and a complete overhaul of the NPPF.

9.0 **Equalities and Diversity**

9.1 As part of the consultation the Government is also seeking comments on whether the proposals would have a negative impact assessment on groups or individuals with protected characteristics but has not published an equalities impact assessment at this stage.

10.0 **Recommendations**

- 10.1 To agree the response set out in appendix A as the Council's response to the Government White Paper 'Planning for the Future'.
- 10.2 To authorise the Strategic Planning Manager, in consultation with the Assistant Director for Economic Development and Cabinet Member for Economic Growth, to make such changes and additions to the response as are necessary to ensure a comprehensive response to the consultation.
- 10.3 For the Council's Strategic Planning and Key Sites Manager to submit the response electronically before 11:45pm on 29th October 2020.

11.0 **Reasons for recommendations**

- 11.1 To respond to the consultation within the required timescale.

Glossary of Terms	
LPA	Local Planning Authority
CIL	Community Infrastructure Levy
EiP	Examination in Public
NPPF	National Planning Policy Framework
PPG	Planning Practice Guidance
SA	Sustainability Appraisal
DtC	Duty to Co-operate
PIP	Permission in Principle
LDO	Local Development Order

Decision information

Key decision number	Non key 183
Wards affected	All wards

Document information

Report author	Contact number/email
Alan Morey	Alan.morey@chesterfield.gov.uk 01246959707
Background documents	
These are unpublished works which have been relied on to a material extent when the report was prepared.	
https://www.gov.uk/government/consultations/planning-for-the-future	
Appendices to the report	
Appendix A	Proposed Response to Consultation Questionnaire

APPENDIX A

Consultation Questionnaire and Draft response (Responses in *italics*)

Pillar One – Planning for Development

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

Q2. Do you get involved with planning decisions in your local area?

Yes X

No

Q2 (a) If no, why not?

Don't know how to

It takes too long

It's too complicated

I don't care

Other (please specify)

Local Planning Authority

Q3. Our proposals will make it much easier to access plans and contribute your views to planning decisions. How would you like to find out about plans and planning proposals in the future?

Social media

Online news

Newspaper

By post

Other (please specify)

NA

Q4. What are your top three priorities for planning in your local area? (Please select only three answers)

Building homes for young people

Building homes for the homeless

Protection of green spaces

The environment

Biodiversity and action on climate change X

- Increasing the affordability of housing X
- The design of new homes and places
- Supporting the high street
- Supporting the local economy X
- More or better local infrastructure
- Protection of existing heritage buildings or areas
- Other (please specify)

Q5. Do you agree that Local Plans should be simplified in line with our proposals?

- Yes
- No
- Not sure X

Supporting statement

Chesterfield Borough Council supports the clear emphasis on Local Plans and the intention that they should be clear, and map and web based. More information is needed to comment in detail, for example of standard templates for Local Plan and evidence.

The Paper is unclear on role of plans beyond allocating development, for example in safeguarding land for infrastructure, this should either be available as a further purpose/ zone or explicitly a possible function of the "protection" zone. There should be scope for variations in proposals for land within the same broad zone – for example it should be possible to zone one 'growth' area for housing and another for employment?

The paper suggests that the zones would be exclusive. However, there is likely to be an overlap between some of the functions described under 'Protect' such as Conservation Areas', and locations where the 'Renewal' zone would be appropriate, particularly around town centres. Consideration should be given to the potential to overlap such areas, or for 'protect' areas to exclude functions such as Conservation Areas, which are covered by other legislation and guidance that must be applied regardless.

Further information is required on the threshold for 'substantial development' for 'Growth Zones'. This should be set low enough to capture most potential greenfield sites. It may be appropriate to set the threshold low but with a sliding scale on the level of supporting information required for different levels of development, or alternatively to allow Local Planning Authorities to determine what is 'substantial' growth in their own areas, taking account of the size and scale of existing settlements in their areas.

Clarity is required on whether Local Plans can include multiple zones of the same type, with different guidance on acceptable uses, conditions, design codes etc.

Q6. Do you agree with our proposals for streamlining the development management content of Local Plans, and setting out general development management policies nationally?

- Yes
- No
- Not Sure X

Supporting Statement

In principle, the Examination in Public process already prevent LPAs from repeating national policy set out in the NPPF in Local Plans. Setting Development Management policies at national level could result in bland identikit policies that do not reflect local circumstances. LPAs should continue to have the ability to make the case for the need for limited specific local policies with this being tested at Local Plan Examination stage. Examples may include local thresholds for assessment of landscape or retail impact, which are already allowed for under the existing NPPF and will vary depending on sensitivity of landscape, size of settlement etc.

Further comment needed from Development and Conservation Manager

Q7(a) Do you agree with our proposals to replace existing legal and policy tests for Local Plans with a consolidated test of “sustainable development”, which would include consideration of environmental impact?

Yes

No

Not Sure

Supporting Statement

The current Tests of Soundness have functioned effectively, but the SA process is overly complicated and bureaucratic, and a simpler system would be welcomed. However, as no detail is provided on how the proposed Sustainable Development Test would operate has been provided it is impossible to say whether we agree with it at this stage.

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

Yes

No

Not Sure

Supporting Statement

Whilst flawed, the Duty to Co-operate does at least provide a legal basis for ensuring co-operation on Strategic Planning and Cross Boundary issues. It is not acceptable to remove the Duty without a replacement system being in place. Given the tight timescales proposed for the preparation of Local Plans it is clear that a return to a system of strategic plans informing Local Plans (akin to the Structure Plan) is not appropriate or possible. A restructure of the Duty to Co-operate with clear limits on the issues to be considered and legally binding timescales for parties to respond within the context of the Local Plan process should be considered – with a process for rapid arbitration in the event of disputes, possibly overseen by the Planning Inspectorate as part of the EiP process.

Q8.(a) Do you agree that a standard method for establishing housing requirements (that takes into account constraints) should be introduced?

Yes

No

Not Sure

Supporting Statement

We agree that a standard method, as operated at present, is useful. However, we do not agree with the operation of a system partially based on a fixed percentage of growth above existing dwelling numbers (see response to Q8(b)).

Local Planning Authorities should retain the ability to put forward alternative approaches where they can be justified by local evidence and circumstances, with them tested during the EiP process, as is allowed under the current system.

Q8.(b) Do you agree that affordability and the extent of existing urban areas are appropriate indicators of the quantity of development to be accommodated?

Yes

No

Not Sure

Supporting Statement

Chesterfield Borough Council has concerns about the use of the existing urban area as an indicator of the quantity of development to be accommodated, if this is on the basis of a fixed percentage of existing housing stock (as proposed in the recent consultation on changes to the current system, which recommended an 05% baseline). A stock-based approach artificially inflates housing need without taking local economic factors (such as employment growth) into consideration. The borough welcomes an aspirational approach to housing growth but is concerned that inflating housing targets

may lead to unsustainable patterns of growth without addressing other fundamental underlying issues.

The council is of the view that a more nuanced approach to Housing Delivery Test repercussions is required if housing requirements are to include the stock element. It would be more appropriate to use a multiplier in cases where growth aspirations call for a further increase in housing supply than generated by the 10 year projection figures alone. The council considers that any multiplier should take the capacity of the market to deliver homes into account.

It is important that affordability is also taken into account, but this should be considered on the basis of an affordability ratio adjustment which incorporates changes over time (10 years is suggested as a reasonable timescale) as this will ensure a level of responsiveness to changes in local circumstances and avoid the vulnerability of any formula to anomalies. In a relatively small borough such as Chesterfield, house prices in a given year could be skewed by the bulk completion of (for example) a block of 1 bedroom flats or development with a large proportion of large detached properties in a particular desirable setting, or by figures affected by the current pandemic.

Q9(a). Do you agree that there should be automatic permission in principle for areas for substantial development (Growth areas) with faster routes for detailed consent?

Yes

No X

Not Sure

Supporting Statement

Permission in Principle has seen poor take up amongst developers, in part due to the reluctance of banks to lend on the basis of PiP. Whilst the establishment of the principle or development upon adoption of a Local Plan is welcomed, there should be clear guidance on the minimum level of supporting information required for the principle of development to be established, to provide certainty for communities and developers that areas zoned for growth can be delivered.

There is a significant issue in this proposal in that it passes the responsibility, and therefore costs, of effectively preparing Permission in Principle/ Outline Planning Permission/ Local Development Order onto the Local Authority. There are significant costs associated with this, financially and in terms of staff resources and time (the government's own Impact Assessment of costs associated with PiP showed the typical cost of preparing and submitting a full planning application at approximately £25,000 for a minor site, including fee costs. The cost for full planning permission for a major site (based on 100 dwellings) was approximately £40-£50,000. A recent study into the costs of preparing LDOs for significant employment sites in the borough indicated costs of up to £50,000). Unless LPAs are to be properly funded and recompensed for these costs this risks allocations for Growth being skewed towards sites with existing developer interest who are willing to undertake the required investigations.

Q9(b). Do you agree with our proposals above for the consent arrangements for Renewal and Protected areas?

Yes

No X

Not Sure

Supporting Statement

Insufficient clarity is provided for the consent arrangements within these zones. They are too broad and the processes by which consent will be achieved are too vague. By their nature, existing urban areas and previously developed sites will have the most complex issues in terms of impact on amenity, highway operation and safety, ground conditions, design and character and impact upon local facilities, infrastructure and amenities. In an area such as Chesterfield Borough this can also include coal mining and flood risk within established urban areas.

Whilst it may be beneficial to establish the principle of development for a range of uses within such areas, any assessment of detailed impact needs to retain wide flexibility to considered site specific issues.

Q9(c). Do you think there is a case for allowing new settlements to be brought forward under the Nationally Significant Infrastructure Projects regime?

Yes

No X

Not Sure

Supporting Statement

Where new settlements are zoned within Local Plans, the decision making should remain with the relevant LPA, particularly if the Local Plan will establish the principle of development, which will reduce the scope for dispute.

Q10. Do you agree with our proposals to make decision-making faster and more certain?

Yes

No

Not Sure

Supporting Statement

Further response to be provided by Development Management and Conservation Manager.

Q11. Do you agree with our proposals for digitised, web-based Local Plans?

Yes X

No

Not Sure

Supporting Statement

We support web-based plans in principle. However, the proposals are short on detail about the form this should take or how it will be achieved. It is likely to take significant investment in time and resources. A comprehensive study should be undertaken of the requirements of this approach and the costs and timescales and sufficient New Burdens Funding must be provided to ensure that this is established within the required timescales.

Q12. Do you agree with our proposals for a 30 - month statutory timescale for the production of Local Plans?

Yes

No

Not Sure X

Supporting Statement

It is not clear how the proposed timescales have been arrived at. In principle we would support statutory timescales but these should be based on a proper assessment of the work required – at present the timescales appear to be arbitrary. LPAs are effectively being asked to identify, prepare, assess and determine planning applications (through PiP or LDO) within the proposed timescale (12 months for preparing a plan), as well as preparing design codes and significantly increasing public engagement. A proper study should be undertaken looking at the realistic timescales and resource requirements of preparing Local Plans at this level of detail and the results used to inform the statutory timescales.

Keeping to any statutory timescale will require a number of measures to be in place, including: Proper funding of the process; a legal duty on related bodies (such as Highways Authorities, and Statutory Consultees) to provide evidence and respond within set timescales.

It is unclear how the timetable would deal with issues such as purdah periods for elections. If the timetables are to be achieved, plan preparation may need to be given clear exemption from purdah restrictions or allowance made to add this time to the statutory timetable. For example, preparation of the most recent Chesterfield Borough Local plan was affected by purdah periods for the Brexit referendum, two General Elections, Police and Crime Commissioner and Local Elections.

A clear discrepancy exists between the proposed timescale and the proposal that Local Plans will be in place by 2023. 30 months is 2 ½ years (or 42 months (3 1/2 years where a recently adopted Local Plan is in place). Even if primary legislation and all the supporting templates etc were in place by mid 2021 this would give barely two years to complete the process.

Q13. (a) Do you agree that Neighbourhood Plans should be retained in the reformed planning system?

Yes X

No

Not Sure

Supporting Statement

Q13 (b) How can the neighbourhood planning process be developed to meet our objectives, such as in the use of digital tools and reflecting community preferences about design?

Chesterfield Borough has not seen any Neighbourhood Plans prepared so no comment is provided.

Q14. Do you agree there should be a stronger emphasis on the build out of developments? And if so, what further measures would you support?

Yes X

No

Not Sure

Supporting Statement

Greater scope should be available to LPAs to step in where allocated sites are not being brought forwards, including availability of funding to purchase and prepare land for development, with the costs subsequently recouped by selling on the land for development. There should be a standing principle around the use of CPO to purchase allocated land where the landowner/developer has failed to progress the site despite a Local Plan allocation.

Under the current system LPAs are already involved in supporting landowners in bringing sites forwards, frequently committing significant financial and staff resources in supporting landowners (Chesterfield Borough Council is, for example, currently involved in supporting development of a town centre site for 50 dwellings, which has included undertaking site investigations, and is providing masterplanning and landscape assessment support to another for 270 dwellings). Mechanisms to allow these costs, usually born by a landowner or developer in preparing a planning application, to be set as a charge against the land when sold, would provide a mechanism to fund Local Plan preparation and ensure those costs are born by the landowner/developer.

Pillar Two – Planning for Beautiful and Sustainable Places

Q15. What do you think about new development that has happened recently in your area?

Not sure/indifferent

Beautiful/well-designed

Ugly/poorly-designed

Other (please specify)

Q16. Sustainability is at the heart of our proposals. What is your priority for sustainability in your area?

Less reliance on cars X

More green/open spaces

Energy efficiency of new buildings

More trees

Other (please specify)

Q17. Do you agree with our proposals for improving the production and use of design guides and codes?

Yes

No

Not Sure X

Supporting Statement

Whilst supporting in principle the use of design guides and codes, much of the detail is left for later publication (for example a national standard template for design codes). The effectiveness of design codes can be extremely variable, and more clarity is needed.

Their preparation is also costly in time and resources and there needs to be a clear mechanism for funding this work and recovering the cost from landowners/developers if they are not simply to become developer led tick box exercises.

Sufficient flexibility should be built into the national codes to allow for local distinctiveness if Design Codes are going to be effective and supported by the Local Community.

Q18. Do you agree that we should establish a new body to support design coding and building better places, and that each authority should have a chief officer for design and place-making?

Yes X

No

Not Sure

Supporting Statement

Q19. Do you agree with our proposal to consider how design might be given greater emphasis in the strategic objectives for Homes England?

Yes X

No

Not Sure

Supporting Statement

Q20. Do you agree with our proposals for implementing a fast-track for beauty?

Yes

No X

Not Sure

Supporting Statement

The proposals are vague and lack any clarity or rigor. Whilst supporting 'beauty' in the built environment in principle, the proposals risk of creating standards that are the least people will find offensive to the most people and stifling genuine innovation. They also assume appear to prioritise beauty above other factors such as sustainability of location, impact on highways and amenity, suitability of sites in terms of ground conditions and flood risk etc. all of which require proper consideration and risk being downplayed in favour of one aspect.

The proposal to use standard pattern books is also concerning, as it suggests a 'one size fits all' approach that may result in forms of development that are inappropriate to the location in which they are built.

Pillar Three – Planning for Infrastructure and Connected Places

Q21. When new development happens in your area, what is your priority for what comes with it?

More affordable housing

More of better infrastructure (such as transport, schools, health) X

Design of new buildings

More shops and/or employment space

Green space

Don't know

Other (please specify)

Q22. (a) Should the Government replace the Community Infrastructure Levy and Section 106 planning obligations with a new consolidated Infrastructure Levy, which is charged as a fixed proportion of development value above a set threshold?

Yes

No

Not Sure X

Supporting Statement

More information is needed on how the national levy would operate.

The most immediate concerns relate to viability. Under the new proposals, site viability would not be considered. There is therefore a question over how the rate could reflect local circumstances, including the benchmark land values used to judge what is necessary to encourage a willing landowner to make their site available for development. The new Levy will be calculated based on the final value of a development (or an assessment of the sales value where the development is not sold). Consequently, it would appear that it would not take into account the often higher costs of delivering brownfield or other sites with larger abnormal costs. This is a critical issue for areas like Chesterfield where the local plan allocates strategic regeneration sites such as Staveley & Rother Valley Corridor which have acknowledged viability issues.

Any Levy should continue to be assessed and implemented locally (see response to question 22(b)).

The proposals do not take account of the wider role of S106 beyond securing funding for infrastructure, which is only one of the four purposes of planning obligations set out in the regulations, the others being:

- a) restrict the development or use of the land in any specified way*
- b) require specified operations or activities to be carried out in, on, under or over the land*
- c) require the land to be used in any specified way*

These have been used for a wide range of purposes including the long term maintenance and management of the Green Infrastructure, the management of land (or provision of replacement land) for the purposes of biodiversity and habitat, limiting the range or timings of activities for protect amenity and others. They are also used to ensure that infrastructure directly related to development (whether on or off site) is secured and provided in a timely manner. If S106 is to be dropped, alternative arrangements should be put in place to achieve these aims.

Q22. (b) Should the Infrastructure Levy rates be set nationally at a single rate, set nationally at an area-specific rate, or set locally?

Nationally at a set rate

Nationally at an area specific rate

Locally X

Setting the Levy nationally is fraught with difficulty. There are risks with setting the levy either too high or too low. If the levy is set too high, it may prevent development coming forward in certain locations. If the levy is set at a low level such that it captures all but the most unviable developments, this could result in development 'under-paying', resulting in necessary infrastructure being unable to be provided.

The reality is that not all developments deliver uplift in land value. Developers in locations with no uplift may benefit from falling beneath the minimum threshold proposed but the effect would be that local authorities in such areas, potentially including Chesterfield, would have less levy revenue to direct towards providing necessary infrastructure. It would be more appropriate to consider whether a national fund should be providing this investment in areas that do not generate the additional values but do need investment in strategic infrastructure.

Given the required focus on identifying deliverable sites to meet local housing requirements, the lack of viability testing might make it difficult to rely on housing yield from more challenging, less viable sites (such as those requiring costly on-site infrastructure) and focus on easier, but potentially less sustainable options. If the Levy is based on final development value this would appear to raise the potential that high quality design would have to pay more than a poorer quality scheme, introducing an undesirable and unintended disincentive to raise design standards (contrary to the stated and welcome objective on design elsewhere in the white paper).

As currently applies with CIL, the proposed new rate would be based on the applicable rate plus indexing, on the date of planning permission being granted. However, whereas CIL is payable within a set timescale of commencement, the new levy would not be payable until occupation. ('Occupation' would need be defined in legislation to avoid the extensive legal debates and costly delays.) Whilst this would introduce a delay in receipt of CIL revenues on each development, it would overcome current difficulties on certain schemes where smaller developers have reported difficulties in payment of CIL in advance of receipts from sales.

Clarification is needed on whether the value will be fixed when an implementable permission is granted or on the date the local plan is adopted and granted outline planning permission.

Q22. (c) Should the Infrastructure Levy aim to capture the same amount of value overall, or more value, to support greater investment in infrastructure, affordable housing and local communities?

Same amount overall

More Value]

Less Value

Not sure

Supporting Statement

If set nationally it is impossible at this stage to predict if it would capture more or less value locally. Ideally the Levy should capture greater value but to do this it should be set locally.

Q22. (d) Should we allow local authorities to borrow against the Infrastructure Levy, to support infrastructure delivery in their area?

Yes X

No

Not Sure

Supporting Statement

In principle LPAs can already borrow against future CIL receipts but rarely done due to uncertainty and variability of CIL income and the impact of changes to legislation. This would not change under a nationally set regime. To enable borrowing against future income the Govt should provide some surety that, in the event that the anticipated income is not forthcoming.

Q23. Do you agree that the scope of the reformed Infrastructure Levy should capture changes of use through permitted development rights?

Yes

No

Not Sure

Supporting Statement

The Government's introduction of permitted development rights (PDR) which allow the conversion of, for example, office space to residential has been widely criticised, in part due to the ability for new residential development permitted under PDR to avoid developer contributions to necessary supporting infrastructure and affordable housing. However, the proposals would bring into line the costs associated with providing infrastructure to support housing coming forward under PDR. Further amendments to the existing CIL Regulations may be required in order to capture this in advance of the new Infrastructure Levy regime taking effect.

Q24. (a) Do you agree that we should aim to secure at least the same amount of affordable housing under the Infrastructure Levy, and as much on-site affordable provision, as at present?

Yes

No

Not Sure

Supporting Statement

Further comment to be provided by the Council's Housing Team for the Cabinet Meeting.

Q24. (b) Should affordable housing be secured as in-kind payment towards the Infrastructure Levy, or as a 'right to purchase' at discounted rates for local authorities?

Yes

No

Not Sure

Supporting Statement

Further comment to be provided by the Council's Housing Team for the Cabinet Meeting.

Q24. (c) If an in-kind delivery approach is taken, should we mitigate against local authority overpayment risk?

Yes

No

Not Sure

Supporting Statement

Further comment to be provided by the Council's Housing Team for the Cabinet Meeting.

Q24. (d) If an in-kind delivery approach is taken, are there additional steps that would need to be taken to support affordable housing quality?

Yes

No

Not Sure

Supporting Statement

Further comment to be provided by the Council's Housing Team for the Cabinet Meeting.

Q25. Should local authorities have fewer restrictions over how they spend the Infrastructure Levy?

Yes

No

Not Sure

Supporting Statement

Yes in principle, but the White Paper is recommending no ring fencing. If the Levy is to be used to deliver infrastructure needed to support growth and affordable housing, some limits will still be required to prevent LPAs being overwhelmed by requests for funding that exceed the capacity of the levy and to ensure it remains ring fenced for infrastructure to support growth and does not become a replacement for falling revenue income.

Q25 (a) If 'yes', should an affordable housing 'ring-fence' be developed?

Yes

No

Not Sure

Supporting Statement

Yes, with the caveats set out above that we do not believe Affordable Housing should be delivered through the proposed levy.

Q26. 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?

Yes

No

Not Sure

Supporting Statement

Whilst welcoming the emphasis on digital planning in principle, it must be recognised that this method of communication is not available or suitable to all and is likely to have an adverse impact upon some groups with protected characteristics unless alternative mechanisms are in place, otherwise the proposals risk locking some groups out of the process. By way of example, the council currently encourages electronic engagement with the Local Plan process, but approximately 50% of our Local Plan notifications are still currently sent by physical post.

The council also has significant concerns over whether the proposals to deliver affordable housing through the proposed levy will deliver an appropriate level of affordable housing. If this delivers a lower level of affordable housing this is likely to have a greater impact on those protected characteristics covering age and disability in particular.