



Cabinet Member Planning and Enforcement

Warren Whyte
Buckinghamshire Council
The Gateway
Gatehouse Road
Aylesbury
HP19 8FF

warren.whyte@buckinghamshire.gov.uk
01296 383031
www.buckinghamshire.gov.uk

Planning for the Future Consultation
Ministry of Housing, Communities and Local Government
3rd Floor, Fry Building
2 Marsham Street
London
SW1P 4DF

29 October 2020

By email: planningforthefuture@communities.gov.uk

Dear Sir/Madam,

Re: White Paper consultation: “Planning for the Future”

Please find below a response from Buckinghamshire Council to the above consultation, responding to the 26 questions set out in the White Paper.

The Council believes the White Paper is a missed opportunity to modernise and improve the planning system. There are many areas of the White Paper that should be commended; a simplification of the Local Plan system and the removal of the much maligned Duty to Cooperate are two such proposals that the Council would support. In addition, references to placing high quality design at the centre of a reformed planning system alongside the renewed emphasis of the value of neighbourhood plans are also to be welcomed.

However, we have a number of significant concerns about the proposals including;

Reducing local democratic accountability

There can be little argument that the current planning system is in need of modernisation and improvement. It can be cumbersome, overly bureaucratic and slow. However, in response to these challenges, the proposals in the White Paper seek to over-centralise and standardise decision making at the expense of local accountability and democracy.

Reducing engagement in Local Plans

In many areas the proposals are contradictory and counter-productive. For example, by simplifying and ‘streamlining’ Local Planning processes and introducing the zoning of Growth, Renewal and Protection areas, the Government will shift consideration of the principle of developments into a condensed Local Plan process which, for many people, will not be accessible and it will only become clear what has been permitted later on in the process when their involvement will be too late.

Imposing inflated housing targets

The imposition of nationally set housing targets is of great concern. This concern is exacerbated by the recent consultation from the Government on a revised methodology for housing targets. The Council has responded to that consultation, expressing grave concerns about how the Government's methodology is derived, again raising significant issues of reducing local democratic accountability in the planning process.

Affordable housing must be properly funded

The response highlights the importance of affordable housing; it is our view that just building more homes will not deliver affordability. Instead, Government must support Local Planning Authorities and their housing partners in determining local need, and provide the necessary funding support. The White Paper's suggestion that local authorities might borrow in order to forward fund affordable housing is considered to be an ill-considered solution; tax payers would effectively be subsidising loans to developers and landowners. The Council would also not support changing the thresholds for delivery of affordable housing given that small development play such an important role in rural areas.

Developers should fund the full cost of development

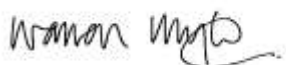
The Council opposes the delay in payment of infrastructure levy as set out in the White Paper; upfront payment is essential if the infrastructure to support development is to be in place prior to occupations. The Council expects developers to fund the full cost of development, and fund the infrastructure up front. Ideally that could be achieved by a process of land value capture, but Local Authorities cannot be expected to cash flow schemes until certain thresholds are met. In the absence of private sector funding then the Council would expect Government to cashflow schemes. The risk cannot be with Local Authorities.

Greater penalties for planning enforcement

The Council welcomes the Government's intent to improve the planning enforcement system. Whilst the powers currently exist to take action against planning breaches, these are not a sufficient deterrent to those who flout the rules, due to lengthy court proceedings (in part due to the low priority afforded to planning matters) and the punishments that are subsequently handed out. There are also lengthy delays in the process due to backlogs in the Planning Inspectorate and it is imperative that Government deals with these delays in order to boost public confidence in the planning system. The Council would welcome changes to the fines imposed by the courts such that they are proportionate. The Council's experience is that certain developers are willing to take risks and are not deterred by the consequences of the enforcement action that can be taken against them. The Council would welcome steps which strengthen the requirement for developers to comply with the conditions imposed on planning permissions, whether this is through a system of fining for failure to discharge and/or comply with conditions.

I look forward to seeing the Government's response to these comments.

Yours faithfully



Warren Whyte
Cabinet Member for Planning and Enforcement



Response to White Paper consultation: “Planning for the Future”

Pillar 1: planning for development

Consultation Qs 1-4:

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

Response

As a newly formed local authority, Buckinghamshire Council is in the process of creating a new planning service for Buckinghamshire. The principles upon which are planning service will be based will be focused on quality of life outcomes for the residents and businesses of Buckinghamshire. Our new service will be focusing on **shaping** high **quality places** for the benefit of current and **future** generations.

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

Response

Yes – as the Local Planning Authority.

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?

Response

N/A

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

Response

Buckinghamshire is a fantastic place to live and work. As custodians of the County, the Council is committed to ensuring that new development creates places that we can be proud of and that respect and enhance the character of the County. We also recognise the importance of the local economy and we are focused on bringing investment into our towns to ensure they remain vital and vibrant. The Council is also committed to achieving net zero carbon emissions by 2050 and the planning system will have a vital role to play in helping us achieve that ambition.

Proposal 1: The role of land use plans should be simplified.

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

Response

While Buckinghamshire Council agrees that Local Plans have become unwieldy documents both in terms of preparation, roll out and day to day use, an over simplification of Local Plans could leave residents and elected representatives without a voice and risks diluting local democratic accountability. An over

simplification of the planning process would go against one of the key facets the UK's planning system; local involvement in decision making. Local Plans are critical to achieving truly sustainable development, it is vital that this is not undermined through a drive towards simplification. There is limited detail in the White Paper about how this simplification will be achieved while at the same time as achieving all the other goals outlined in the document. For example, the drive towards increased engagement is welcomed, but good engagement takes time and resources.

Any changes to simplify the process run the risk of disfranchising communities despite the claims of the Planning White Paper to the contrary. The Government must be mindful of this risk.

The 'growth', 'renewal' and 'protected' categories in new Local Plans are not considered to be true zoning. They are just a formalisation of what already happens or could happen. They add another layer of complexity along with the associated masterplans and design codes necessary to provide a permission in principle. This would not make the system simpler and clearer, as envisaged.

Zoning systems can create controversy over development and land values, as a consequence of zoning allocations which are then legally-binding. This could well lead to an increase in appeals/judicial reviews as landowners/developers would see their sites allocated unfavorably.

The Council highlights the risk that the proposals undermine local democratic involvement in and control of development. There is a major tension between the centralising tendency and the desire to promote greater engagement, transparency and localism. It is difficult to square notions of transparency and engagement with the proposed quicker speed of local plan making and the reduced facility for public engagement in the process. It is not clear how community engagement is mediated with the need for speed and clarity.

The proposed timetable for simplified plan production is unlikely to allow enough time for proper community engagement to take place. Community engagement would only likely be possible well after key decisions on sites have been made, the plan submitted, and the local planning authority has been talking for months with developers. This is, in effect, a fait accompli. Communities will feel as though they have not been able to influence the plan meaningfully, potentially resulting in more legal actions being taken, with consequent delays.

Very few local planning authorities have the resource and expertise to produce a local plan of this complexity within 30 months – and then repeat the exercise five years later. Similar concerns arise as to whether the Planning Inspectorate's resources can cope with so many plans so quickly. Reliance on standardised data / national data standards from other agencies, e.g. the Environment Agency, to make key decisions in the next year on "constraints" is a tall order given their resources. Will there be devolution of resources to these agencies to support this? If not, it may constrain delivery of this data.

In addition, any disappointed developers will submit planning applications on their omitted sites, with inevitable appeals. Allocated developers will submit applications, and more appeals, to increase or decrease densities, or to alter the mix of uses, or to alter design codes, or to accommodate changes in circumstances. It is highly likely that the number of appeals will go up, not down, because of the rules-based inflexibility and "set in stone" nature of local plans.

In the areas of protection, it must be clear when some forms of development will be permitted rather than there being an absolute ban on development. Listed buildings need to have uses, Conservation

Areas cannot be frozen in time and disused buildings in the Green Belt, or their sites, should be re-used. The scale of development permitted in AONBs should also be clearer. There should also be the provision for local areas of protection for such things as locally valued landscapes and the setting of protected locations, or areas, should also be protected where relevant.

In renewal areas there will be significant local debate over what amounts to infill development. A national definition of what is generally permissible would be a useful e.g. no more than three plots of similar scale to adjacent plot sizes within an otherwise built up frontage. The White Paper is silent on other forms of development such as waste or minerals. Such developments are not always popular or appropriate in residential areas. Some waste developments may be more suitable than others in a particular area; simple zones would appear to fail to take these difficult strategic developments into account. Intensification of use in urban area/town centres will have an infrastructure cost, and it can be more expensive than on greenfield sites.

The government should consider allowing the Council to publish a draft plan, receive comments, amend it in the light of the comments and then submit the Plan, rather than publish and submit. This would also provide the Council an opportunity to adjust the Plan where well founded deficiencies are identified. More time would need to be allowed in the statutory timetable for this. Speed at the front end will most likely mean long delays at EiP for any modifications.

Overall the proposal introduces further centralised power over planning, such as in setting housing requirements or the infrastructure levy. In addition, most policies would appear to be set at national level, with little or no scope for local discretion. The proposed zoning system, coupled with the relaxation of permitted development rights, means that most control over what development happens in a particular locality passes to landowners and developers: local councillors and residents would have little or no involvement once the zones had been established. In a further illustration of how the proposed new system is tilted towards developers.

Many plans, such as Buckinghamshire's, are at early stages of production. The introduction of radical changes at this stage makes it extremely difficult for a planning authority to plan how it will deliver its new plan. The Government must make it clear whether they intend to introduce transitional arrangements in implementing any changes to ensure that resources are not wasted. Related to this, the White Paper suggests new style plans will need to be in place by the end of 2024 but the time taken to prepare legislation, NPPF and guidance will mean that authorities will be starting from a "standing start" in 2022, all competing for the same resources at the same time. Also has the Government considered how PINS will resource hundreds of local plan examinations all happening in 2024.

Proposal 2: Development management policies established at national scale and an altered role for Local Plans

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

Response

Planning is a democratic process that mediates between different interests – local and national; social, economic and environmental; current and future generations – in the public interest. While a national guide on generic matters faced by all development across the country is broadly welcomed, having a strict set of policies would fail to recognise that areas face different local challenges that often require

bespoke policy approaches, or they would be so generic as to be toothless in the consideration of development.

The risk on the proposed plan is that local policy issues will be side-lined in favour of top-down control and will not be made simple by streamlining the system. Centralising policies on a national scale could result in standard “anywhere” places, and it is important to be able to retain local policies which seek to ensure new development respects the character and distinctiveness of local areas. Uniform build to checklist areas would not be considered beautiful and is unlikely to respect the character of individual areas.

The alternative option would allow Local Plans to contain some policies, as long as they do not duplicate the national policy is far more preferable. Local policies will also need to quantify requirements for decision making based on locally assessed needs, land values circumstances and constraints on the ground and viability.

Proposal 3: Local Plans should be subject to a single statutory “sustainable development” test, replacing the existing tests of soundness

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?

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

Response

The current system utilising the Sustainability Appraisal (SA) is onerous and often results in being a target for legal challenge. While a new system is welcomed any replacement will need to be sufficiently rigorous to ensure that the environmental impact of development proposals can be judged against other proposals on a fair and consistent basis.

A ‘Sustainable development’ test must be easy to understand and agree. The test needs to be clear and simple and accompanied by clear tested guidance. If sustainable - all three pillars of social, economic and environment need to be covered.

The removal of EU directive driven assessments (SA/SEA, HRA) is welcomed provided that they are replaced by assessments that are capable of providing the same safeguards, especially on Nature 2000 sites.

The council supports the removal of the legal test of the Duty to Cooperate and would not welcome anything replacing such a test. However, it is acknowledged that Infrastructure planning as part of development needs to be front and foremost and must consider implications across neighbouring boundaries.

Any nationally set housing targets that have been derived and reapportioned in line with constraints and ‘levelling up’ will still need the full cooperation and agreement of elected members of local planning authorities. To support this approach, there should be real engagement on the early processes culminating in draft targets. At the draft stage elected members supported by their officers must be able to locally and democratically reach agreement on any cross boundary housing issues. As an input

to deriving more sensible local housing need figures please refer to the Council's submission on the changes to Planning Practice Guidance.

Proposal 4: A standard method for establishing housing requirement figures which ensures enough land is released in the areas where affordability is worst, to stop land supply being a barrier to enough homes being built. The housing requirement would factor in land constraints and opportunities to more effectively use land, including through densification where appropriate, to ensure that the land is identified in the most appropriate areas and housing targets are met.

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

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

Response

The Council's view is that the standard method for establishing housing requirements needs to be established as we set out in our responses to the Planning Practice Guidance consultation which included that:

- The Standard Method calculation should use the 10-year migration variant scenario to increase stability in the figures for all local authority areas.
- The Standard Method calculation should take 0.5% of dwelling stock as a baseline in every area, and then add half of the annual household growth to reduce the impact of extreme household projections.
- The Standard Method calculation for change in affordability should be based on a quarter of the difference between the ratios (in the same way as current affordability is a quarter of the difference from the benchmark); with a square root taken to avoid any extreme adjustments.

Secondly the Council welcomes the potential for a downward adjustment to calculation to accommodate constraints that the minority of the country needs to deal with in making housing allocations. If the government is truly committed to levelling up then this will be a tool to help achieve such a levelling up.

Thirdly the governments evidence for needing to achieve 300,000 homes each year is not supported by its own analysis.

Also consideration needs to be given to other constrained areas such as Conservation Areas. Whilst these are protected to some degree by requiring planning permission, a change of status that would potentially exclude all new development would damage the ability of such areas to receive investment renewal and continue to thrive.

The use of affordability and the extent of existing urban areas is too simplistic. A series of sub-regional assessments taking a wider view on matters like retail hierarchies, transport and other hubs and constraints would be more acceptable.

Proposal 5: Areas identified as Growth areas (suitable for substantial development) would automatically be granted outline planning permission for the principle of development, while automatic approvals would also be available for pre-established development types in other areas suitable for building.

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?

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

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

Response

Growth, Renewal and Protected zones are a very simplistic starting point for applications and it is not clear how it would work for large strategic applications such as waste, energy and mineral extraction. Information on whether they are excluded from the pre-established development types and growth zones is not available – again a case of limited detail being offered.

The comment that it would be possible for a proposal different to the plan to come forward in the last paragraph on page 34 seems to undermine the concept of growth, renewal and protected zones and returns us to a discretionary system.

We support the principle of providing greater clarity that Growth areas should be acceptable. Under the current system the outline planning stage is vitally important in establishing the environmental impacts and infrastructure capacity of a site and any necessary mitigation. Much of the evidence to support this is collected and presented by the developer in a manner that would be difficult to achieve in the Local Plan process.

The White Paper suggests a 12-month timescale for both selecting and setting infrastructure requirements for growth zones through the Local Plan. Such a short timescale is unlikely to allow for all matters such as highways mitigation schemes, biodiversity offsetting, health infrastructure and on-site education provision to be fully confirmed for each growth zone/site or which there are likely to be many.

Given the potential for site specific impacts to be unclear at the adoption of the Plan it is vital that any reformed development management process allows for local authority control on environmental, heritage and infrastructure implications. Whilst we appreciate a key driver of the current consultation is to accelerate actual housing delivery it should not be at the expense of well-considered plans.

Moving permission to the plan making stage will have the effect of reducing democratic oversight through planning committees. It would undermine democratic planning both in terms of the role of local government in creating decisions which are accountable and in the direct voice of communities in the planning process. By omitting the outline permission application stage, it is unclear how the environmental impacts will be screened, scoped and assessed for a particular scheme coming forward in a “growth” area, particularly against the backdrop of sustainability appraisals being abolished during the making of local plans. Nature, and the wider environment, are cross-boundary matters and do not sit neatly within such a rigid zoned approach. It is not clear how wildlife will be protected and how this will be compatible with and deliver the Environment Bill's proposals on net gain. The Environment Bill will not manage the impact of individual schemes and local plans adequately if the current system of environmental assessment is abolished.

Developers may be willing to invest the necessary resources to provide evidence to the LPA to demonstrate that their site is suitable for the effective grant of outline planning permission but it is unlikely they would also take account of all the other submissions to the Council and what this means for infrastructure.

Given that outline planning permission is currently conditioned to mitigate social and environmental impacts – a long list of standards or ‘rules’ as the White paper puts it would need to be in-place. These are currently supported by S106 agreements which are effective to sites unlike the more general operation of CIL. However, the White Paper is also suggesting the removal of S106 and for Councils to forward fund – a combination of which would need a far longer period to implement.

If permitted development sites are included within a ‘renewal area’ it will be difficult to quantify the number of houses / offices / other uses that are likely to come forward, especially as there will be less relationship with the developer in terms of delivery timescales.

The approach to protected areas is also over simplistic and risk excluding potential areas for growth too soon. E.g. on areas of significant flood risk. The test of “unless any risk can be fully mitigated” is only one you pass at an application level, having modelled e.g. climate change allowances SuDS etc.

Given the long lead in times for new settlements combined with the proposals for 10 year plan periods, there is a logic to using the Nationally Significant Infrastructure Projects (NSIP) regime to bring forward new settlements that may take well in excess of 20 years from conception to completion. However, any future system needs to ensure that proposals are supported locally. There is also an issue that the NSIP process is possibly more confusing and difficult to engage with for the general public. If housing is included in the 2008 Act then to ensure it is spatially in the right location, has appropriate infrastructure and to reduce risk of planning failure it will need to be included in a new NPS.

A significant problem with this proposal is the ability to conduct evaluation and assessment of archaeological impacts. If evaluation is not carried out before sites are given permission in principle, this would no longer be possible. This seem to have been overlooked in these proposals, and it is important to understand that we do not know where all the archaeology is, and new sites of local, national and international significance continue to be discovered through the current development process. It also seems to be in conflict with NPPF para 189. Not knowing about archaeology early in the process does not speed things up or increase the certainty for developers as the Government is seeking to achieve. It does exactly the opposite, storing up problems for later where they become more expensive to deal with and delay construction and, in the worst cases, potentially putting whole projects at risk of no longer being viable.

Proposal 6: Decision-making should be faster and more certain, with firm deadlines, and make greater use of digital technology

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

Response

Whilst the modernisation of procedures could potentially be welcomed, the thrust of the reforms is to place speed of decision-making above achieving sustainable planning outcomes for local communities.

The Planning White Paper also proposes sanctions on the Local Planning Authority if mandatory time periods are not met, with planning fees having to be returned and consent automatically granted; this stick approach is not agreed with.

The White Paper talks of incentives for LPAs to determine applications within time. However, the proposed incentive is in fact a penalty on the LPA, which is considered to be counterproductive and rather an incentive for developers to slow the process. More suitable would be a reward based system whereby if decisions are made additional funding/resource is provided, that way Local Authorities can invest in the service confident that the investment will be repaid.

Clarity is also required on the reduction in the amount of information required versus having enough information for planning officers and interested parties to assess the development proposal. The use of Design Codes is important, but the insistence that this will drastically reduce the level of information required with an application is debateable. Further clarification would be welcomed on the relationship with adopted Development Briefs, particularly whether these can introduce 'rules' in addition to Local Plan policy.

An agreed data standard would be welcomed to ensure consistency, as well as encouraging Planning teams to have dedicated digital support. We would welcome proposals to integrate these documents through automation if possible.

Notwithstanding the above it is important to remember that the current time periods are only currently extended with written agreement from the developer, so it is a two-way process. The current periods for assessing and determining a planning application are only generally extended where negotiations occur, resulting in amended plans and new consultations being required. If it is no longer possible to extend these time limits, or if an automatic refund or deemed permission occurred when the time period expires, then that would remove much negotiation. There runs the risk of a greater number of refusals as a result and a greater number of appeals, as local authorities would not be able to negotiate to achieve better schemes during the assessment periods.

There is a significant risk that the proposals in the White Paper cut existing opportunities to engage with the system by removing the public's right to comment on planning applications and restricting it to plan making and design codes.

Experience shows it is only when a proposal is actively being discussed, rather than the plan-making stage, that most people are motivated to engage. When a new building is proposed, telling neighbors their right to comment on it was effectively five years ago when the local design codes were produced is nonsensical. Participation restricted to commenting on what buildings look like rather than what they are providing and whether this meets local needs is not meaningful. These reforms represent a major centralisation of power redistribution to the private sector; not the local communities.

Previous deregulation of planning control has led to the production of sub-standard housing that lacks basic amenities and is poorly connected to jobs, schools and other facilities. This has exacerbated spatial

and health inequalities by creating poor quality living conditions for many of the most vulnerable in society. Further deregulatory measures could exacerbate these problems.

The Council emphasises that many delays in the planning process result from the involvement of the Planning Inspectorate, be it through Local Plan preparation or planning appeals. The Government needs to address the poor timescales of the Planning Inspectorate. This Council's view is that if the Government does one thing to address the speed of the system, they should reform the Inspectorate.

Proposal 7: Local Plans should be visual and map-based, standardised, based on the latest digital technology, and supported by a new template.

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

Response

In general, yes the move to web-based local plans is supported provided that issues of digital exclusion and the resourcing implications are both acknowledged and fully addressed. Notwithstanding this, the consultation refers to a shift from documents to data. This is not thought through. Data is useful, but not until it is interpreted through analysis and conclusions, which requires documents. Such a move would allow geo-spatial components to be integrated into other GIS-based services, for clearer signposting for interested residents.

The introduction guidelines as to format of Local Plan policies would provide greater consistency and clarity for applicants and officers. The vision for 'retro-fitting' older Local Plan policies in the interim of this proposal would be welcomed.

Concern is raised regarding an increasing use of data and it not sitting well with greater public engagement, as it makes the system more complex. The focus on data rather than documents has equity issues, as it would tend to benefit the educated, technologically savvy and digitally connected and do little to encourage participation by disadvantaged groups.

There is no detail regarding whether 'Policies Maps' must remain a separate document further clarification is needed. The council is supportive of visual, map-based plans and being part of the digital pilot. Extra resources are needed especially if planners cannot rely on other teams for technology input. Whilst in the long term this may assist speeding up plan making it is likely to slow it down in the shorter term.

The digital divide will be ever more present with this approach and this needs to be tackled within any move towards this digital goal.

Proposal 8: Local authorities and the Planning Inspectorate will be required through legislation to meet a statutory timetable for key stages of the process, and we will consider what sanctions there would be for those who fail to do so.

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

Response

In the era of the National Planning Policy Framework the evidence base requirements for plans were massively ratcheted up, because planning inspectors became highly risk averse to the ever-present risk of legal challenge. Significant time is taken up in seeking Government approval for the plan from submission of the plan to receipt of the inspector's final report. A move towards a simpler Local Plan preparation process and streamlining is supported in principle; however, we have significant concerns that the proposed timetable does not leave sufficient time to bottom out the more complex issues.

It is appreciated that the new proposed Local Plans will be much less document focused, it is unclear how the new proposals can speed up the evidence gathering requirements if plans are going to be properly justified and evidence based. As an example, it may be that a substantial highway modelling is required to understand implications for growth on the local and strategic road network. Much of this evidence can only be commissioned and subsequently agreed with key external stakeholders, who are covered by other Government guidance.

It is unclear how the proposed process allows for proper consultation on options for a spatial strategy. We are concerned that the Government's proposed stages of Local Plan preparation do not seem to align with the intention to re-engage planning with local communities. In particular, it is noted that the first time that communities will be consulted on actual proposals is at stage 3, which is the same stage the plan is submitted to the Secretary of State for Examination. This risks the process being viewed by communities as a *fait accompli*. Equally, stage 3 part (ii) suggests that the public can request changes to the plan, it is also assumed that developers will also have a say at this stage, it is unclear how the Inspector would view these proposed changes.

In our opinion the 30-month deadline should only be a guide as in reality it is unlikely to be met, not just by Councils but also by Inspectors and other organisations and people that need to contribute to shaping plans. This proposal needs to be reviewed, setting deadlines which are unlikely to be met and punishing Councils as a result is not supported and will not provide confidence in the system.

Proposal 9: Neighbourhood Plans should be retained as an important means of community input, and we will support communities to make better use of digital tools

- 13(a). Do you agree that Neighbourhood Plans should be retained in the reformed planning system?
13(b). How can the neighbourhood planning process be developed to meet our objectives, such as in the use of digital tools and reflecting community preferences about design?

Response

Neighbourhood planning has arguably been one of the most transformative community powers to come from the 2011 Localism Act. This is welcomed.

The status of neighbourhood plans and their relationship with the proposed hybrid zonal approach set out in the Planning White Paper is unclear because of the absence of detail. The new proposals do not appear to give any scope for Neighbourhood Plans to directly determine housing numbers or the designation of land into the three zones. However, there could be a role for Parish Councils or neighbourhood groups to be more heavily involved in developing neighbourhood design codes or guides.

Decisions being made at a more local level (e.g. through neighbourhood development orders, may empower communities to protect local sites, which may be of personal and local value, but this could

result in increasing and cumulative impacts on sites of greater importance that have been designated based on scientific evidence (e.g. nationally and internationally important sites). Local Plans currently allow the protection of sites, habitats and species of local importance. Loss of this detail has potential to result in the loss of important biodiversity losses of significance at the local scale. This goes against the theory behind the Local Nature Recovery Strategy.

Within the current proposals set out in the Paper, the role of neighbourhood plans is to change focusing instead on a smaller range of planning issues, which may mean the motivation for residents to pursue such plans is reduced. Without careful thought, this could run counter to the Government's ambition to support greater community decision making through the upcoming Devolution and Recovery White Paper.

Proposal 10: A stronger emphasis on build out through planning

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

Response

Yes, but the White Paper does not have any proposals with teeth to motivate the development industry to build. The White Paper appears to rely on encouraging a wider range of developers to become involved on sites but it is distinctly unclear how this would be achieved, and even with a wider range, there are significant doubts that it will speed up delivery. It is not a problem of competition, rather a fundamental reality of open market dynamics.

The Council draws attention to the major issue of landbanking within the development industry, in order for developers to maintain high property prices through supply and demand. The Council would encourage the Government to deal decisively with the issue of landbanking. The Local Government Association has previously suggested financial disincentives (such as charging Council Tax on properties after a period of time) to encourage a swifter delivery. The Council would support measures to incentivise developers to deliver. In addition, the Government should count planning permissions, and not completions, when Councils' performance is judged. A measure to reduce the time a permission can be retained ahead of development would be welcomed.

From a minerals and waste perspective, there are already different rules for what constitutes commencement of mineral workings. Greater powers to ensure that sites are worked and restored at the first available opportunity are now critical.

The Council considers this an important opportunity to put in place concrete proposals to make the development industry build. Greater incentives are needed, not simply an increase of competition.

Pillar 2: planning for beautiful and sustainable places

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

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

Response

Like many part of the country, the quality of new development across Buckinghamshire has varied. There are some very good examples of high quality, well designed places alongside other less well-designed locations. The Council recognises the value of high quality design and shall be placing this at the heart of the new planning service which is now being created as a result of the establishment of the new Buckinghamshire Council.

In our view new developments should have a strong connection to the local area and fully respect the context in which they are located. This includes respecting local sustainability priorities which may differ from location to location, especially in a large geographical area such as Buckinghamshire. The planning system should be flexible and agile enough to be able to respond to those local priorities.

Proposal 11: To make design expectations more visual and predictable, we will expect design guidance and codes to be prepared locally with community involvement, and ensure that codes are more binding on decisions about development.

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

Response

There is little evidence to suggest that sustainability is at the heart of the Planning White Paper as the focus seems to be on the speed of decisions. The Planning White Paper has missed an opportunity to put sustainability and climate change at the heart of a reformed planning system.

Currently, it is a significant uphill struggle to persuade housebuilders to reflect local design preferences, as their business model is so heavily tied to the use of a standard scale-able house types. This creates a system which too often delivers anonymous and relatively indistinct estates. A strengthened role for design guides and codes may assist in this but will not achieve meaningful change without proper resourcing of local authorities.

Place making is all about local context, with the quality of place dependent on the character of new developments respecting existing townscape and landscape character. Many authorities have such guidance – in Bucks, there are Townscape Character Studies of the urban areas, a County-wide Landscape Character Assessment, and Conservation Area Appraisals, which are important, tools to help guide new development.

If design guidance is to be produced nationally, and with the Government's acknowledgement that delays would occur before local design codes could be produced (due to resources and skills), local character and preferences would be overwritten by top-down guidance and system built buildings, built on a standard template to satisfy national guidance rather than local, community-led guidance. This would have the opposite effect of the Government's intention, creating standard places with no appreciation of local context. The proposals risk turning planning into a "planning by numbers" exercise. It is the collaboration and partnerships that should be fostered; not turning the system into a "top down" dictation of standards.

The White Paper suggests that site promoters provide the masterplans and design codes. However, this raises serious questions of fairness, conflicts of interest, and democratic accountability. Instead this Council would support a collaborative approach whereby Councils and local people have a real say in the design of schemes.

Proposal 12: To support the transition to a planning system which is more visual and rooted in local preferences and character, we will set up a body to support the delivery of provably locally-popular design codes, and propose that each authority should have a chief officer for design and place-making.

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

Response

The proposal for each authority to have a chief officer for design and place-making and a new body to support design coding is supported in principle, although it is unclear whether this would be a new burden places upon local authorities and how it may be resourced.

A design body is proposed to help raise design quality. A body akin to the former Commission for Architecture, Design and the Built Environment (CABE) is suggested. The former CABE closed in 2011. Prior to its closure, CABE admitted it had been unable to secure significant improvements in design quality in volume new build housing where the bulk of existing and future development is expected. The rationale for reviving the body is therefore not completely clear.

A new body would cost government a considerable amount and it is questioned whether any capital/revenue funding to establish a new body might have more impact and value by investing in local authority design skills rather than (as suggested) a government arm's length body.

In 2009/10 CABE received an £11.5m government grant. A similar level of government funding distributed to local planning authorities would enable local authorities to significantly enhance design capacity by upskilling officers and potentially recruiting dedicated design officers.

If this proposal is to be supported government must clearly set out how it will be funded and resourced.

The Council would like to see more encouragement for, and the use of, Design Panels. These were advocated in Policy Proposition 36 of the Building Better, Building Beautiful Commission Report (January 2020). Design Panels and Design Reviews can be effective mechanisms for bringing specialist design assistance to local authorities that they are not able to maintain permanently. Design Panels should take advantage of community engagement, visual preference evidence and consultation with local civic societies and amenity groups. There is also potential for a more community-engaged design review process to be applied at the policy stage, when the new Local Plans are formed.

Proposal 13: To further embed national leadership on delivering better places, we will consider how Homes England's strategic objectives can give greater emphasis to delivering beautiful places.

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

Response

Whilst we see merit in Homes England's strategic objectives being modified to give greater weight to delivering beautiful places this must not be at the expense of other key policy objectives – such as achieving policy-compliant levels of affordable housing or securing low carbon outcomes.

Twin tracking design codes with Local Plans is a significant resource challenge. Added to this should be neighbourhood plans that are also expected to comment on design. So many competing views will inevitably lead to delays.

Proposal 14: We intend to introduce a fast-track for beauty through changes to national policy and legislation, to incentivise and accelerate high quality development which reflects local character and preferences.

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

Response

There are significant concerns regarding the deregulatory nature of these proposals, especially concerning the use of permitted development rights and “pattern book” approaches. It is difficult to see how we can set out pre-established principles of what beautiful design looks like as this will often vary depending on the buildings setting.

A “fast track for beauty” should rely on the local authority having confidence in the design proposal for a site creating a genuinely sustainable outcome rather than the speed at which an application is determined. The planning system should be efficient, but it should also support due diligence in assessing development proposals which, once approved, will impact on local communities for decades to come.

The concern with fast-tracking is that it could limit the ability of a consultee to conduct an in-depth assessment of their area of technical expertise – matters such as surface water modelling are complex and take time with many iterations and discussions between technical experts needed and therefore delays in determination of applications is likely. It is not clear what flexibility there is in this approach.

Good planning is about much more than the design and it is important that design is not the sole criterion for such a fast track. Building better places requires the strategic coordination of infrastructure investment with high quality development that can unlock its benefits, something the current proposals ignore. Failing to plan for this now will generate social, economic and environmental costs for future generations. The emphasis should be to create beautiful, liveable and sustainable places. The new fast track to beauty must ensure that it is about creating places and not just individual buildings.

Issues such as obesity, climate change mitigation and the future of our high streets are important parts of the planning system and need to be front and centre in any reforms and any fast track for beauty needs to be able to take these wider issues into account.

The contribution of planning to the achievement of net zero is perhaps the biggest omission in the document. Tree-lined streets are almost the only gesture to a green future for residential areas. There is far more emphasis in the document on the aesthetic appearance of a building than the carbon emissions generated from it. Yet, this is an opportunity to put true sustainable development at the heart of the system, and much more emphasis is needed on this, to ensure the efficiency of a new building at the design stage.

Proposal 15: We intend to amend the National Planning Policy Framework to ensure that it targets those areas where a reformed planning system can most effectively play a role in mitigating and adapting to climate change and maximising environmental benefits.

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

Proposal 17: Conserving and enhancing our historic buildings and areas in the 21st century

Proposal 18: To complement our planning reforms, we will facilitate ambitious improvements in the energy efficiency standards for buildings to help deliver our world-leading commitment to net-zero by 2050.

Response

The Council supports maintaining protection to our heritage assets, although this needs to be holistic and comprehensive enough, the paper does not talk about locally listed/non designated heritage assets for example, this is concerning given the automatic consent for change of use.

There is however a lack of detail in the White Paper about how a heritage asset in a growth or renewal area may be protected, especially noting that not all heritage assets are known about. The statement that additional statutory protections in Conservation Areas have worked well is not agreed with. Reviewing PD rights within Conservation Areas would help to ensure the preservation of local and historic character.

There is also concern over the statement 'We particularly want to see more historical buildings have the right energy efficiency measures to support our zero carbon objectives'. Whilst the drive towards sustainability (noting that the paper is considered weak on climate issues) is supported heritage is irreplaceable, this should be given due weight when balancing this against environmental considerations, especially noting that retrofitting green technology can have detrimental impacts on the significance of heritage assets.

Whilst a 'rules' based system, given the varied nature of heritage and its unique characteristics, is likely to harm heritage, identifying more clearly what is trying to be preserved and enhanced in the historic environment would go some way to achieve this aim.

Key for any site, but especially for heritage, is understanding and responding to context, which is not mentioned. The ability to demand quality construction, materiality and design is likely to be divergent across the country due to land and property values, but the opportunity to encourage traditional building skills and greater variety of developers and design approaches would be welcomed.

Moving to an automatic validation process needs careful consideration especially when it comes to quality of submissions (plans/heritage statements) and also intangible assessments such as a "setting" and Listed Building "curtilage" which cannot readily be aligned with a database system.

Clear rules as to what needs listed building consent would be preferable to introducing other types of applications, especially given overarching aim to simplify processes and therefore a refinement of existing options would be welcomed.

The proposed outsourcing of heritage service to external consultants, concern over consistency, quality, cost and speed of responses would not be guaranteed. This system would be unwieldy to manage with a resultant risk to heritage, transparency of decision making and professional standards.

Pillar 3: planning for infrastructure and connected places

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]

Response

As the planning authority, the Council seeks to achieve an appropriate balance of all the necessary infrastructure. We are increasingly concerned however at the ability of new developments to provide all of the necessary infrastructure at the point at which they are needed and we would encourage Government to consider how it might support local authorities in securing infrastructure up-front rather than as an afterthought to some developments.

Proposal 19: The Community Infrastructure Levy should be reformed to be charged as a fixed proportion of the development value above a threshold, with a mandatory nationally-set rate or rates and the current system of planning obligations abolished.

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?

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

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?

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

Response

In principle The Council supports a new national levy – provided this does not reduce the funds available to the council and provided the levy is set at a level that will genuinely secure infrastructure in high cost areas such as Buckinghamshire, and is designed in order that developers fund the full cost of development and funds the infrastructure upfront. However, we do not support rolling section 106 planning obligations into this levy. These remain a useful tool to allow specific developments to respond to specific circumstances and removing this mechanism entirely could reduce the ability of the planning system to accommodate developments that may otherwise not be acceptable.

Section 106 Agreements do not just secure contributions to infrastructure, they also coordinate how development is delivered, phased, the precise mixture of uses, and important issues that local people often raise concerning community engagement in the management of open spaces, construction hours and management plans, building of school, provision of ecology mitigation and flood attenuation etc. The White Paper does state that the planning system must ensure new development brings with it the schools, hospitals, surgeries and transport local communities need, although it does not provide any details as to how it will deliver this.

The White Paper's suggestion that local authorities might borrow in order to forward fund infrastructure and affordable housing is considered to be an ill-considered solution; tax payers would effectively be subsidising loans to developers and landowners who should be providing infrastructure funding up front.

In addition, there is still a strong a case to require Affordable Homes to be provided as part of developments so as to integrate Affordable Housing into smaller developments (Councils would

inevitably tend towards larger schemes to achieve economies of scale) and to take advantage of the economies of scale that developers can achieve. If s106 is considered a cumbersome mechanism to achieve this, then consideration could be given to requiring and restricting Affordable Homes by planning condition.

This Council highlights the importance of Affordable Housing; it is our view that just building more homes will not deliver affordability. Instead we need Government to support LPAs and their housing partners in determining local need, and support them in terms of funding through the S106 process. In terms of thresholds we need the 10 threshold to be reduced not increased to 40-50. The greater use of small and local builders is admirable, but utterly irrelevant to the delivery of affordable housing.

A distinguishing feature of CIL or a replacement levy is that it captures uplift in land value. To be viable nationally a rate should be set as a percentage of GDV or sales value, however a risk is that in areas where development pressure is low the uplift in land value may be low and may represent a small proportion of overall GDV. In these cases, there may be little scope for new CIL to be set at a significant percentage value or to generate much value. A national rate would risk undermining development viability in these areas while missing out the opportunity to capture land value in areas (like Bucks) where land value is higher). Hence, even with a levy set as a percentage of GDV or sales value a regional CIL is considered more appropriate. Authorities cannot be expected to cash flow the schemes until certain thresholds are met. In the absence of private sector funding then we would want Government funding to cash flow it. The risk cannot be with local authorities. The Council has serious concerns that the new national infrastructure levy will not be set at a sufficient level to ensure infrastructure is delivered.

Before the Government commits to the abolition of S106 it is vital that it fully considers how a new mechanism aligns with other infrastructure funding streams and provides clarity on the prioritisation of identified infrastructure requirements, including the transfer of funds from the collecting authority to the infrastructure provider where they are not the same.

Decisions about how to spend the levy must be made locally but need to be aligned with the Local Plan Infrastructure Needs Assessment as they are now, and the Infrastructure Delivery Plans upon which the Planning White Paper is silent.

Proposal 20: The scope of the Infrastructure Levy could be extended to capture changes of use through permitted development rights

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

Response

Notwithstanding concerns about the increased use of Permitted Development Rights and the weakening of Development Management oversight, capturing changes of use through permitted development rights is welcomed in principle.

Proposal 21: The reformed Infrastructure Levy should deliver affordable housing provision

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?

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?

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

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

Response

The White Paper's proposal to use the Infrastructure Levy to fund affordable housing, as set out in Proposal 21, will create an inevitable false choice between the need for the provision of infrastructure and the need for affordable homes.

The costs associated with affordable housing delivery could mean that any in-kind delivery, the value of which is taken off the Infrastructure Levy, could leave little funding for mitigating the infrastructure impacts of development. It is also unclear what powers the Local Planning Authority would have to require provision on site, to achieve balanced and mixed community objectives, thereby avoiding mono-tenure developments.

Proposal 22: More freedom could be given to local authorities over how they spend the Infrastructure Levy

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

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

Response

This suggests a much more flexible approach to the use of the Infrastructure Levy, which would break the critical link that currently exists between the S106 and the Community Infrastructure Levy and the provision of infrastructure that mitigates the cumulative impact of development on an area and it could create an environment where large scale strategic projects are not prioritised as highly as local schemes which arguably are more palatable to the community. As a matter of principle, the Council welcomes greater freedoms and flexibility and believes that decisions of this nature are certainly best made at a local level where choices about spend, priorities and benefits can often be much clearer.

Proposal 23: As we develop our final proposals for this new planning system, we will develop a comprehensive resources and skills strategy for the planning sector to support the implementation of our reforms.

Response

The Council highlights the lack of details outlined in the White Paper, if a positive outcome is to be achieved skills whether achieved through upskilling current employees or bringing in new resources is going to be critical. The Government need to provide strong support and the confidence that they fully support apprenticeship courses which allow local government a cost effective way of training existing officers.

The Council embraces upskilling and expects the Government to support the training and growth of staff within the planning sector.

Proposal 24: We will seek to strengthen enforcement powers and sanctions

Response

The Council welcomes the Government's proposed review and strengthening of the planning enforcement powers and sanctions. The Council considers that the powers currently exist to take action against planning breaches but in its experience these are not a sufficient deterrent to those who flout the rules due to lengthy court proceedings (in part due to the low priority afforded to planning matters) and the punishments that are subsequently handed out. The Council would welcome changes to the fines imposed by the courts such that they are proportionate.

The Council would welcome changes to the consequences of breaching Temporary Stop Notices, Stop Notices and Breach of Condition Notices to include the taking of direct action (as per breaches of enforcement notices and S215 Notices) and the fast-tracking of prosecution action.

By reason a breach of planning control is not a criminal offence, our experience is that certain developers are willing to take risks and are not deterred by the consequences of the enforcement action that can be taken against them. The Council would welcome steps which strengthen the requirement for developers to comply with the conditions imposed on planning permissions, whether this is through a system of fining for failure to discharge and/or comply with conditions.

We would also welcome improved joint working with other statutory bodies (e.g. the Environment Agency) whereby breaches of planning control are afforded priority such that the Council is able to take swift action with the full support of that agency.

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?

Response

The focus on data rather than documents has equality issues, as it would tend to benefit the educated, technologically savvy and digitally connected and do little to encourage participation by important sectors of society. Councils still need to meet the Public Sector Equality Duty and will need to provide the "data" and methods of engaging with the new system in other formats.