

8th October 2020

Report of	Assistant Director of Place and Client Services	Author	Karen Syrett
Title	Proposed Consultation Response to the Planning for the Future White Paper		
Wards affected	All Wards		

1. Executive Summary

- 1.1 On the 6th August the Government published two documents which are intended to reform the planning system. This report sets out the Councils response to Planning for the Future - a White Paper published in August.

2. Recommended Decision

- 2.1 To submit the proposed response to the Ministry of Housing, Communities and Local Government by the deadline on 29th October.

3. Reason for Recommended Decision

- 3.1 The consultation provides an opportunity for the Council to influence national policy.

4. Alternative Options

- 4.1 Not to respond to the consultation or to make amendments to the suggested response.

5. Background Information

- 5.1 Although two planning consultations were launched on the 6th August this response concerns only one: Planning for the Future (a White Paper).
- 5.2 This document proposes reforms of the planning system to 'streamline and modernise the planning process, bring a new focus to design and sustainability, improve the system of developer contributions to infrastructure, and ensure more land is available for development where it is needed.'
- 5.3 Although excellence in Planning is recognised, the Government suggest it is hindered by a number of problems;
- The system is too complex
 - Planning decisions are discretionary rather than rule based
 - It takes too long to adopt a Local Plan
 - Assessments of housing need, viability and environmental assessment are too complex and opaque
 - It has lost public trust and consultation is dominated by the few willing and able to navigate the system
 - The process still relies on documents and not data – its based on 20th century technology

- The process of developer contributions to affordable housing and infrastructure is complex, protracted and unclear and causes delay
- There is not enough focus on design and little incentive for high quality
- Not enough new homes are built.

5.4 There are a number of proposals intended to address 'the underlying weaknesses' in the planning system which are split into three Pillars;

1. Pillar One – Planning for development
2. Pillar Two – Planning for beautiful and sustainable places
3. Pillar Three – Planning for infrastructure and connected places.

5.5 There are a number of issues raised in the paper some of which are detailed below;

1. Local plans would be simplified and focus on identifying three categories of land – "growth areas" that are "suitable for substantial development"; "renewal areas" that are "suitable for development"; and "protected areas". In "growth areas", outline approval would be automatically granted for forms and types of development specified in the plan. Development in renewal areas would "cover existing built areas where smaller scale development is appropriate" and could include the "gentle densification" of residential areas, development in town centres, and small sites in and around villages. There would be a "statutory presumption in favour of development" specified in the plan. Protected areas, including green belt, conservation areas and Areas of Outstanding Natural Beauty (AONBs), would still be subject to planning applications for new schemes.
2. Local plans should be subject to a single and "simplified" statutory "sustainable development" test, replacing the existing "tests of soundness". This new test "would consider whether the plan contributes to achieving sustainable development in accordance with policy issued by the secretary of state", the consultation states. The test could also "become less prescriptive about the need to demonstrate deliverability". New plans will still be required at least every 5 years and will be produced within 30 months.
3. Instead of general policies for development, the document says, local plans would be required to set out site and area specific requirements for development, alongside locally-produced design codes. The National Planning Policy Framework (NPPF) "would become the primary source of policies for development management" so no local policies for development management purposes.
4. The legal duty to cooperate, which requires local planning authorities to continuously and effectively engage with neighbours on strategic issues such as housing need, would be removed but there is no detail on how strategic cross-boundary issues, such as major infrastructure or strategic sites, will be addressed.
5. The government is considering scrapping the five-year housing land supply requirement. The document says its "proposed approach should ensure that enough land is planned for, and with sufficient certainty about its availability for development, to avoid a continuing requirement to be able to demonstrate a five-year supply of land". However, it proposes to "maintain the housing delivery test and the presumption in favour of sustainable development as part of the new system".
6. Councils and the Planning Inspectorate would be required through legislation to meet a statutory timetable of no more than 30 months for plan preparation with "sanctions for those who fail to do so".
7. The need for sustainability appraisals alongside plans would be abolished and instead a "simplified process for assessing the environmental impact of plans, which would continue to satisfy the requirements of UK and international law and treaties".

8. Local plans would need to be “visual and map-based, standardised, based on the latest digital technology and supported by a new standard template”, the document says. The planning process would be increasingly digitised.
9. Under a proposed new “fast-track for beauty”, proposals for high-quality developments that reflect local character and preferences would benefit from “automatic permission”. New development would be expected to create a “net gain” to areas’ appearance.
10. Design codes, which would be expected to be prepared locally, would be made “more binding” on planning decisions. A new body would be established to support the delivery of design codes across the country.
11. The standard housing need method would be changed so that the requirement would be “binding” on local planning authorities who would “have to deliver [it] through their local plans”. The new method “would be a means of distributing the national housebuilding target of 300,000 new homes annually”.
12. A new ‘single infrastructure levy’ will replace the existing developer contributions system of section 106 agreements and the community infrastructure levy. The government says the new levy will be a nationally-set, flat rate charge and would be based on the final value (or likely sales value) of a development.
13. Community consultation will be streamlined.
14. Planning applications should be shorter and more standardised. There will be penalties for councils that fail to determine an application within the statutory time limits which could involve “the automatic refund of the planning fee”. Ministers also “want to explore whether some types of applications should be deemed to have been granted planning permission if there has not been a timely determination.”
15. Where applications are refused and the decision is overturned at appeal, the paper proposes that “applicants will be entitled to an automatic rebate of their planning application fee”.

5.6 The Response

There are a series of questions set out in the consultation and attached to this report in appendix 1. Not all the questions necessitate a response and in some instances the Councils comments relate to matters of principle, so it is suggested that an email response is sent rather than using the standard survey.

6. **Equality, Diversity and Human Rights implications**

- 6.1 The Equality Act 2010 requires public authorities to have due regard to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations. It relates specifically to groups with protected characteristics including age, disability, sex, race, religion or belief, sexual orientation, gender reassignment, pregnancy, and maternity.
- 6.2 Accordingly the Government will need to satisfy itself that there are no direct or indirect impacts in terms of eliminating unlawful discrimination, advancing equality of opportunity and fostering good relations on people who share characteristics protected under the Public Sector Equality Duty.

7. **Standard References**

- 7.1 There are no particular references to the Strategic Plan; consultation or publicity considerations or financial; community safety; health and safety or risk management implications.

8. Environmental and Sustainability Implications

- 8.1 Sustainable development is at the heart of the planning system, in terms of environmental, social and economic elements.

Appendices

Appendix 1 – Proposed Response

Background Papers

Planning for the Future;

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/907647/MHCLG-Planning-Consultation.pdf

Appendix 1

Questions & Proposed Answers

General Points

Colchester Borough Council is extremely concerned at the proposals put forward in this consultation document. The Planning system is not broken, and such radical changes are not required. There is cross party agreement within the Council that these changes if implemented would cause more harm than good.

Meaningful comment on the consultation paper is challenging due to the lack of detail in many parts of the document.

Along with many Local Planning Authorities (LPA's), the Council welcomes the identification by Government that Planning Teams are under resourced and have been greatly affected by the reduction in resources available due to the acute financial pressures local authorities have experienced. However, this will need to be supported by an appraisal of how to fully resource a local planning authority, including more than just staffing considerations. A number of the proposals place more burdens on LPA's rather than removing them.

We welcome any changes that engage the community and help make planning more community-led and democratic. However, the Council is concerned that by reducing public consultation during the planning application stage particularly, could disadvantage some from being involved for several reasons including moving to a new community where the detail of the remaining phases have already been established. The White Paper does not provide a single new right for community participation or a single new opportunity for democratic involvement in the plan-making process, but rather reduces both rights and opportunities to participate.

The Council welcome the input into the White Paper from the Building Better, Building Beautiful Commission.

There appears to have been no consideration of the relationship between this paper and the expected Government Reform White Paper. This is of paramount importance, as the administrative area for Local Planning Authorities is likely to be subject to change and this will have a significant impact on the extent of an area to be covered by a Local Plan and at what level the responsibility of planning will be, in both the existing and any future planning system. It is unknown if this will have a negative or positive impact to planning. If new wider administrative areas are introduced, new opportunities for strategic planning could be enabled which would help address the gap left by the removal of the Duty to Cooperate requirement. However new administrative areas which seek to strengthen divides across administrative boundaries, could exacerbate the existing problems experienced with cross border strategic issues with needs continuing to be unmet.

There is an apparent conflict between some of the proposed changes in this document and those set out in the Changes to the Planning System consultation. The focus on design and building beautiful for example contained within the White Paper would be undermined by some of the proposals in the Changes to the Planning System consultation.

Proposals without Consultation Questions

It is surprising that there are not specific questions for each of the proposals presented. Within Pillar Two particularly, there are no questions in relation to proposals 15 to 18 which cover a

variety of topics including climate change, energy efficiency, the historic environment and environmental impacts.

Although proposal 15 outlines the intention to amend the NPPF to ensure the planning system can have an effective role in mitigating and adapting to climate change, the White Paper does not consider the increasing levels of flood risk as a result of climate change and the significant impact this already has and will continue to have on the existing and future built environment.

In order to avoid the unnecessary erosion of listed buildings, it is important that proposals for alteration works continue to be independently assessed by Councils and not simply signed off by an 'experienced architectural specialist'.

Upgrading the energy efficiency of Listed Buildings is already supported where this would not adversely affect the special interest of the building; the White Paper seems to suggest that such works will be accepted irrespective of the harm they cause. This will clearly be to the detriment of the heritage asset's significance.

The White Paper is silent on archaeology.

The potential to strengthen protection to non-designated heritage assets is welcome, and this could be achieved through making a Local List a statutory requirement. This would offer protection to buildings of local significance within zones of Growth and Renewal.

Speeding up decision-making (and Plan Making) must not come at the expense of a loss of full understanding of the detailed environmental baseline nor the impacts of specific proposals. Whilst it is important that *'The environmental aspects of a plan or project should be considered early in the process...'* No amount of *'... national and local level data made available to authorities, communities and applicants in digital form...'*, can replace the need for site-specific surveys, unless site level impact assessment is carried out as part of the evidence gathering prior to plan making and across all allocated growth and renewal zones before applications come in. This is likely to be far more costly than the current system with the cost falling largely on the local authority and may delay the plan making process. It also conflicts with the aim of reducing the evidence base requirements to speed up plan making.

Whilst consolidation of the requirements for environmental assessment and mitigation in one place would be welcomed, it is unlikely that all the appropriate or likely impacts and opportunities can be identified and captured in one study for individual sites or zones and will need regular updating, especially for protected species and habitats data. Additionally, Landscape and Visual Impact studies are sensitive to the precise development that is proposed.

Questions

Planning for Development

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

It's not broken.

2(a). *Do you get involved with planning decisions in your local area?* 2(b). *If no, why not?*

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?* [

We welcome changes to make the system more nationally consistent and to make access easier for residents and other local stakeholders. Newspapers do not reach as many residents as previously and very few people read the small/standard adverts which are costly for the local authority. Site notices are required for some specific applications, will this continue to be the case, despite the digital template proposal? It is unclear if physical site notices will still be required.

The preferred method of notification is online, including via email. This is already encouraged and increasing access to digital technology should present opportunities to enhance this further.

The Council regularly issue news articles and press releases regarding key information from the Local Plan, Neighbourhood Plans and Planning Appeal Decisions.

The Council has increasingly used social media during consultation and examination of the emerging Local Plan. This has worked because the Plan is borough wide. It would be more challenging to use social media for planning applications or site proposals as these relate to a specific geographic area and are less likely to be of interest to all residents in the Borough, as is the case for the Local Plan. The principle of enhancing the stakeholder engagement with planning through digital media is supported. However, it remains a challenge to ensure all groups of the community have the opportunity to engage in the process and many are not willing or able to access information digitally, and the system will still need to build in the opportunity to reach those groups.

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

1. Building homes for those in need
2. More and better infrastructure delivered in a timely manner
3. Protection of the countryside/environment

Local Plans

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

No. The approach of Local Plans to identify only three land categories is too restrictive and does not consider the complexity of a number of constraints and the potential relationship with development. For example, in Colchester, the Town Centre includes a number of conservation areas, but within these areas, there are potential opportunities for development, as identified through the Colchester Town Deal Bid. This approach does not consider how heritage for example, can be a driver for high quality change within development schemes, which may now be considered Growth or Renewal, but if the heritage assets are Protected, this development potential may be missed.

The proposal for all land to be subject to one of the three designated areas is unrealistic. In Colchester, the emerging Local Plan has identified a number of 'Sustainable Settlements' which can accommodate medium scale development. As there is no definition of substantial development in relation to Growth areas, and the only other reference to the scale of development in these areas is the reference to New Settlements, it may not be suitable for these small/medium scale development areas to be considered Growth Areas. Through the definition of Renewal areas relating to existing areas to support small scale development, brownfield land or small sites within or on edge of villages, this does not clarify where a development of medium scale in a Sustainable Settlement in Colchester could be considered. The term 'Renewal' is associated with the redevelopment and improvement of an area. There does not appear to be a land definition that considers development of small to medium scale development that can supplement and support existing communities.

Similarly, in Protected areas, there appears to be no consideration of the rural employment and residential development opportunities further to the support given by NPPF paragraphs 77, 78, 83 and 84. The rural economy does not appear to have been sufficiently considered. The rationale for protected areas to include Local Wildlife Sites is unclear and provides no reference to other local designations. Our coastal landscape is very precious and needs protection. The Coastal Protection Zones should be regarded on a par with national parks and afforded the same status within protected areas. In the NPPF heritage assets are either designated or non-designated, with many non-designated assets are unknown as they are archaeological sites as yet discovered or the true significance of a heritage asset is not yet recognised. This poses another issue with defining Protected areas.

The lack of detail regarding how the land designations will be used in practice also presents a potential conflict with local designations made within the Local Plan. For example, could open space be designated and protected within a growth zone? This is particularly important given the importance and access (or in some communities limited access) to open and green space to all communities highlighted through the Covid 19 pandemic.

Substantial development for growth areas requires definition either at the national or local policy level. There is likely to be differences between the definition of rural greenfield and urban brownfield sites in terms of character, concept and scale particularly. Similarly, 'important constraints' requires further definition and should not be limited to those determined at a national or international level. These should also be informed by local level evidence in order to conserve locally important assets that may be highly valued locally.

Within the current Local Plan system, allocations for development and protection are based on a number of technical appraisals and scientific evidence including infrastructure delivery plans, landscape character assessments, historic impact assessments, green infrastructure strategies, nature recovery strategies etc. It is unclear through the White Paper how this evidence will be collated as it will still be required to inform zoning in the revised Local Plan process. Will this be provided at a detailed level by Government or Government Agencies? If LPAs are to remain gathering evidence but only publish summaries and not full documentation, how will local stakeholders, developers and residents interrogate and challenge the summary information and decisions made from it? This does not ensure planning is transparent. Similarly, the need for evidence to be available at the Local Plan stage rather than the current planning application stage, results in a greater financial burden for the LPA. This does not conform to the aspiration of the planning system to be funded by the 'beneficiaries of planning gain' rather than the 'national or local taxpayer'. This is particularly highlighted through the need for a very up to date Historic Environment Record (with the digitised HER only an index to the greater archaeological resources held within HERs).

Finally, the system will not be slimmed down. Whilst the Local Plan itself may be smaller, it will require supporting documentation such as Design Codes/Guidance which will simply amount to

the same level of detail as is produced now. Experience suggests that the 30 month timeline suggested is overly ambitious. There should not be a focus on speed of determination at the expense of consultation and engagement.

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

We do not support a national development management framework, preferring a local framework. A local framework enables the distinctive nature of areas to be identified and celebrated, as well as allowing sufficient consideration of individual and specific circumstances affecting an area. A local framework is determined through a local democratic system, with decision making locally accountable.

Valuable local distinctiveness will be lost through the introduction of national development management policies. It will result in the proliferation of housing estates that look the same no matter where you are in the country – something that is at odds with the beauty agenda. Planning cannot be made to fit a “one-size fits all” approach, whilst there is no need for Local Policies to duplicate the NPPF, there is a need for flexibility to account for local circumstances and characteristics.

The NPPF does not currently give clear support to non-designated or ordinary countryside outside of a valued landscape. Landscape character assessments and capacity studies are not given the prominence they should as a tool for evaluating the suitability of land for allocation of different types of development. Para 170.b) requires an understanding of the essential defining qualities of the countryside of the locality through LCA. The NPPF will need to be updated and supplemented with landscape and green infrastructure technical guidance to underpin policies at a national level.

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?

We support in principle the abolishment of the Sustainability Appraisal system and the development of a Sustainable Development test, as the current system is too complex. The Sustainability Appraisal has become a way to challenge plans, rather than a way to make sure plans are sustainable. The abolition of the soundness test as part of this process is also supported, particularly given that the Council’s ambitious proposals for long-term sustainable Garden Communities were stymied by the current system’s overly restrictive view of deliverability and soundness.

We also support the abolishment of the Five-Year Housing Land Supply as this will be established through the Local Plan process and through the deliverability assessment to be included in the Sustainable Development test. The current situation whereby the Council’s position can be challenged several times a year is inefficient, time and resource intensive and does not always result in the best outcomes.

More detail is required to how the Sustainability Development test will be implemented in order to provide further opinion. It is also necessary for it to be clear how this relates to the Strategic Environmental Assessment which, although often carried out as part of the SA, is a requirement under the European Directive 2001/42/EC.

A single sustainable development test should include both the natural and historic environment. There is occasional mention of the historic environment throughout the White Paper, focusing on buildings and historic areas. The sustainable development test should include all aspects of the

historic environment – built, buried, archaeological and landscape, alongside the natural environment.

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

The removal of the Duty to Cooperate is supported in principle as it has not provided a robust replacement for the strategic planning provided through regional or structure plans. However, there is a need for this to be replaced by new strategic planning mechanisms. No replacement is set out in the paper. Neither is the issue of how an LPA accommodates growth if it cannot do so within its own LPA area.

The replacement of the Duty to Cooperate will need to consider the Government Reform White Paper which may help address cross boundary issues such as major infrastructure. It may be appropriate for authorities to consider joint member panels and committees to help address the loss of the Duty to Cooperate.

Even a slimmed down assessment of deliverability will need to demonstrate how cross boundary issues are addressed. That should be sufficient.

Standard Method for Housing Requirements

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

No. The Council does not support the new housing formula, which will dramatically and disproportionately increase the numbers of homes required in Colchester. The methodology does not outline what constraints will be taken into account, or the arrangements for agreeing these with the LPA.

Colchester Borough Council fundamentally objects to the proposal as set out. The methodology over-concentrates the numbers in London and the South East. The numbers in London in particular are not deliverable whilst housing needs and growth ambitions in the north will not be adequately met. The focus on the south east risks exacerbating a skill shortage as there are only so many tradespeople available in the short term. There are likely to be training and capacity constraints.

The revised standard methodology results in a clear variation of where new homes are required to be built and the wider Government levelling up agenda. As outlined in the study from the Local Government Association (LGA), the new formula would see the highest percentage increase in new homes growth in the Midlands and the South, with Northern regions seeing lower growth rates, with proposed housing targets being 28% lower than exiting delivery for the North East, 8% lower in the North West and 6% lower in Yorkshire and Humberside.

The resultant figures for Colchester are unrealistic and result in an annual target of 1612 new homes per annum. At no time since records began in 1974 have such numbers been achieved and it is not realistic to expect them to be delivered now. In comparison, the Council's evidence base suggests a target of 920 units a year. The infrastructure cannot support growth at such an increased level and the market cannot sustain it. There is already a growing multi-million pound infrastructure deficit. If London cannot meet the housing needs forecast using this approach, it is likely to result in displacement with even higher figures for neighbouring authorities.

The Council has consistently delivered against its housing targets and now feels it is being penalised for doing so whilst other authorities have undelivered and have 'got away with it'.

A Local Plan can only identify areas suitable for development, it cannot enforce or control when development is undertaken. If there is a recession, and development levels fall, that is not as a result of the Local Plan. Yet, Local Authorities could be penalised for 'under performance' in delivering housing numbers due to factors wholly outside their control.

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

No. This is a very simplistic approach. Less affordable areas can be less affordable because they are more desirable, as opposed to a lack of supply. Supply and affordability are not directly linked.

There needs to be a greater recognition of constraints within areas and not just those within the Green Belt. The NPPF recognises the importance of AONB's but there are other designations, such as Coastal Protection Belt and Local Wildlife Sites that should also be recognised. In addition the ability of infrastructure to support new development should be taken into account.

There are a number of policy approaches that could be used to achieve the target of 300,000 new homes a year which would have a more appropriate outcome and would not penalise Councils like Colchester that have always delivered.

High levels of housing delivery have traditionally been achieved when there are high levels of publicly built homes. If the Government is serious about delivering more housing they should provide funding to enable this.

A cap needs to be retained to ensure any change in annual targets is achievable.

Planning Permissions

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?

No. We do not support plans for Growth areas and automatic outline planning permission, which we feel goes against the aims to make planning more accountable to the local community and will lead to a poorer quality of housing. Permission in Principle could reduce democracy as this eliminates consultation during the planning application process.

A concern is that residents who miss the chance to comment on the zonal system in a Local Plan will have far less say than they do now – for example those who have recently moved into the area. They will be shocked to find out that the principle of development has already been secured and have little to comment on. This will undermine confidence and public participation in the system.

This proposal goes against the principle of a securing a quicker, easier and less onerous Local Plan making process as communities and elected members are likely to want to see more detail of Growth areas at the plan making stage, than currently through existing local plan allocations. There is already a desire from local communities to want to know more information on the specific detail of proposals, which is not available at the plan making stage. This will only increase if there is no further opportunity to influence the allocation and is likely to strain relationships between communities and Local Authorities.

The mechanics of how this approach will work in practice requires greater clarity. For example, in areas where a growth zone might be appropriate, some areas within that may be used for open space or other uses which are not suitable for development. How would a mixed use scheme or a desire to see a sustainable community be achieved? Local Plan policy currently provides for a mix of uses within a growth allocation but it is unclear how this would be achieved in a high level

zoned approach. This is simply too blunt as a policy tool with areas in reality comprising a mosaic of land uses and developability.

If permission in principle/outline consent is to be granted in Growth and Renewal Zones, it is essential that LPA's are resourced appropriately at the plan making stage to ensure allocations of these zones are based on sound technical evidence. This contradicts the proposal in the White Paper to simplify and speed up the plan making process.

There are also very significant cost implications for LPA's to resource a front-loaded planning system which passes the cost burden from the developer to the LPA – again another area of conflict between two proposals in the White Paper.

The NPPF emphasises the priority and desirability of preservation in situ of important archaeological remains, but if evaluation is not carried out before sites are given permission in principle, this would no longer be possible. As the location of archaeology is unknown, new sites of local, national and international significance continue to be discovered through the current development process. Delaying archaeological evaluation to later in the process is likely to result in problems later in the process when they are more expensive to deal with and delay construction, potentially putting whole projects at risk of no longer being viable. This is at complete odds of the government aim of speeding up the planning process and increasing the certainty for developers.

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

No. Similar concerns apply in respect of the Renewal Zones as for those identified above in relation to Growth Zones and the opportunity for community involvement, the quality of development and the level of detail available at the plan-making stage. Local Plans currently often contain spatial policy safeguarding area for urban renewal, within which there may be a mix of land uses which contribute to that overall renewal, which emerge as part of the plan making process. It is unclear how the opportunities to apply varying details to the extent and nature of renewal, within an area identified as a Renewal Zone under the proposal will be applied.

The approach for Protection Zones is also a concern and lacks clarity. There is a need for additional detail to allow for layering of zones. For example, a Conservation Area lends itself to protection but may also be suitable in parts for renewal and/or growth. There is also uncertainty around the status of vast swaths of white land which surrounds the built -up areas of settlements and areas specifically protected for environmental qualities. The complexity of urban and rural areas is incapable of being accommodated through the blunt instrument of zoning.

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

No. There needs to be local governance and accountability for such projects. Local development corporations provide a potential alternative solution for the delivery of new settlements where they straddle administrative boundaries. The NSIP process is poorly understood by the public and difficult for them to engage with positively.

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

No. Granting extension of times for the determination of applications have an advantage to both the LPA and developer, as this can enable further work/review of proposals to lead to an improved proposal and result in planning permission being granted that would otherwise be refused. The existing system does require the cooperation of both parties and facilitates positive outcomes. The removal of extensions of time is likely to result in more refusals being issued and potentially

an increase in appeals or costly and time consuming resubmissions, for proposals that could have reached a positive position through a longer determination period. Councils would be forced down a route of quick refusal rather than face the consequences of non-determination as outlined in the White Paper i.e. return of planning fee or automatic planning permission being granted.

Faster decision making appears somewhat incompatible with the desired 'new focus on design', by virtue of the general standard of design currently achieved within submitted applications and the constant need to seek revisions. The onus needs to be placed on applicants to submit applications that are compliant with adopted local policy and guidance, both in terms of design and other requirements, in order to receive a timely determination.

Statements such as "Small builders, housing associations and those building their own home, will find this system much easier, less costly and quicker to navigate, with more land available for development..." (p25) imply a lightening of the consents process in certain areas for certain classes of development which will result in a more complex and potentially inconsistent decision making process.

The Council support the introduction of IT solutions that can improve and streamline the validation process. The Council also welcome Planning Statements being limited to 50 pages and focused to how the proposal complies with the Local Plan and NPPF.

However, changes to the validation process need to ensure that place making remains at the heart of the development management process ensuring that design and layout are not lost within the detailed plans in a bid to ensure these are machine readable. The detail of this process will need to consider assessments which are not aligned with a database or algorithmic system, such as heritage setting, listed building curtilage, landscape character and views.

A reformed approach to validation, should consider allowing LPAs the right to reject applications that do not include accurate, appropriate and complete information. This could prevent further delays during the decision-making process, where consultees are unable to provide a complete response due to missing or inappropriate information.

Local Plan Production

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

The Council would welcome the greater use of interactive planning tools; however, this would require greater resourcing and active facilitation by Government of access to best practice. This will be most effective through a standardised GIS system for all Local Planning Authorities. The Council support the idea that interactive online mapping of the Policies Maps in a Local Plan will provide greater clarity to communities, developers, statutory consultees etc of the designation of land, however this should not replace the Local Plan document, which needs to be more than a series of web-based maps.

This also presents an opportunity to combine existing interactive data sets into one central web-based mapping service. This could include the historic environmental record, landscape character assessments, flood risk assessments etc

There will still be a need for a Local Plan document to supplement a series of web-based maps. There will be a requirement to explain and provide context to the data shown within maps. It is accepted that existing Local Plans can be extensive in length, however in most cases this is necessary.

In order to engage younger people in the planning process, the introduction of some variation of the SIM City software during the consultation process may help to address spatial concerns.

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

No. The removal of the publication draft public consultation stage is not supported. The White Paper states an intention to provide greater community involvement in the planning process. This proposal does not accord with that objective and does not support a democratic process.

It is acknowledged that in the case of Colchester the Emerging Local Plan examination has been unique and occurred over a much greater time period than we would have liked especially in relation to a traditional Local Plan examination. The delays, however, as noted above, arose in part to the current system's overly restrictive view of deliverability and soundness which constrains Councils' ability to plan long term. Even if this aspect of the plan-making system is reformed to provide a less prescriptive approach to soundness, an alternative process will still take time.

If Local Plan Examinations are to be removed and replaced with self-assessments, there will need to be a standard set of tests against which to judge the plan and a standard set of national policy to shape plans. Some form of peer review from successful local authorities of similar character could be used to support and mentor authorities developing plans. However, overall, the Council does not support this suggestion. It is likely to lead to more legal challenge which could delay plan making and add to the cost and there are concerns about any alternative to the current system of planning inspectors. The current system may be capable of being streamlined but in any event is accountable and allows people to engage. The same cannot be said of the process for Neighbourhood Plans.

A 30 month timescale to produce a Local Plan is unrealistic. The proposed Zoning approach will not negate the need for explanatory text in a Local Plan in respect of designations and allocations and the specific policy considerations for each such as housing numbers.

There will remain the need for technical assessments to be undertaken to inform designations and allocations, a number of which will be fundamental to the acceptability of the allocation/zone. Coupled with the Design Guides and Codes to be produced alongside the Local Plan, this does not make the Local Plan process less complex as these would be twin tracked.

The timetable proposed implies that initial public consultation should take place before any evidence gathering. This has risks if the evidence collected later shows that the zone or sites identified for development contain key constraints or opportunities including landscape, ecology, archaeology or heritage (among others). Evidence gathering should continue to be undertaken in advance of plan making and consultation as currently. To suggest that "*the local planning authority draw up its proposed Local Plan and produces any necessary evidence to inform or justify the plan*" after the plan is drafted and consulted upon, misunderstands the role of evidence gathering in rational decision making. Evidence needs to inform plan making, not justify it once it has already been drawn up.

Reviewing plans every 5 years with best in class consultation techniques will require best in class resourcing of local authorities in advance of legislation and on an ongoing basis.

Neighbourhood Planning

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

Yes. Neighbourhood Plans have been successful in Colchester. There are now five adopted Neighbourhood Plans across the Borough (Boxted, Myland and Braiswick, Wivenhoe, West Bergholt and Eight Ash Green), with three of these allocating housing sites totalling 520 dwellings until 2033. A further 600 dwellings are due to be allocated through the Tiptree Neighbourhood Plan. A number of other Neighbourhood Plans are being prepared including West Mersea, Great Tey and Marks Tey.

However, it is unclear how Neighbourhood Plans would fit into the new three-zone system. There is a lack of clarity about the scope and power of such plans in decision-making. The degree to which neighbourhood planning has a meaningful role will depend on which zone it is in, but with national design codes and centralised development management policy there appears to be little or no logical role for Neighbourhood Plans beyond contributing to local design guides. Clarification on the status and scope of Neighbourhood Plans is a vital pre-condition for the reform process. The scope of Neighbourhood Plans outside of preparing Design Guides/Codes needs to be clarified. So too do the timescales.

Local experience suggests that expecting non planning professionals, who often work on the neighbourhood plan alongside their day job, to prepare a plan within 30 months and to review it every 5 years might be a tall order. If Neighbourhood Plans are to be retained in the reformed planning system but with a different scope, funding should be made available to ensure existing plans can be reviewed and updated to be used in the new system.

Local communities should remain able to shape growth within their local area and allocate additional housing to meet specific local needs. The removal of Neighbourhood Plans from the planning system or a reduction in their ability to shape and influence growth and development locally does not accord with the localism agenda.

The Council would suggest however that the process of examination of Neighbourhood Plans should be reviewed. A more formal process administered by the Planning Inspectorate could help with timetabling and accountability.

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?

Neighbourhood Plans broadly constitute the most micro level of adoptable local policy in terms of their spatial jurisdiction, and as a result they are potentially the most appropriate mechanism to identify a true local vernacular and achieve a design code that is underpinned by the specific context of an area. However, financial and community capacity barriers particularly, currently mean that not every area is able to develop a neighbourhood plan. There are other barriers preventing every area from being able to develop a plan, as recently highlighted through the Avonmore, Brook Gran and Addison neighbourhood plan area and forum being refused by the London Borough of Hammersmith and Fulham (May 2020) for not including membership from different places within the neighbourhood area and from different sectors of the community in that area.

Were neighbourhood plans given the backing of appropriate funding to facilitate their wider adoption they could potentially fulfil the remit of design codes that truly reflect local vernacular, whilst also enhancing engagement and participation in the planning system. Design codes could be developed across several neighbourhood plan areas with shared characteristics and jointly adopted.

Resources will need to be put in place in advance to provide training for neighbourhood planning groups to facilitate digital engagement.

Speeding Up Delivery of Development

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?

This varies across the country. In Colchester there is no land banking and developers tend to build out at expected rates or as they advise. In other areas it is acknowledged that land banking is a problem.

There is no obvious recourse if a developer is unable to meet an agreed delivery rate. One solution may be a tax on unbuilt plots.

Local Planning Authorities should only be held accountable for the number of units that are given planning permission, not the number of units that are delivered, as this is beyond their control. The proposal to maintain the Housing Delivery Test and the presumption in favour of sustainable development as part of the new system should be reconsidered for this very reason.

Design

15. What do you think about the design of new development that has happened recently in your area? [Not sure or indifferent / Beautiful and/or well-designed / Ugly and/or poorly-designed / There hasn't been any / Other – please specify]

There is a reliance on the use of standard house types which, when combined with the requirements of other inputting authorities (notably highway standards) creates a development that fails to reflect/reinforce local distinctiveness. There is nothing tangible in the White Paper that would change this.

Design is not given enough weight within the planning balance prescribed by the current system. As a result, LPA's are hard pushed to take a hardline on design quality and the standard of design delivered suffers. This is reinforced by the domination of the housing market by volume house builders who do not wish to deliver locally distinctive products.

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

All of the above. We note the lack of green policies in this White Paper which should be addressed.

We would like to see it become mandatory for every future development to consider sustainable construction and microgeneration. Details such as solar panels, insulation and recycling of water along with microgeneration needs to be given greater weight as part of the duty to combat climate change. Building Regulations are best placed to achieve this.

Sustainability proposals need to be integrated into the development from the initial design stage and not added on at the end of the process to achieve a tick box exercise, which is all too often the case at present.

It is important not simply to look at energy efficiency; carbon consumption should also be considered (including in the construction of materials).

It is easier to improve the efficiency of buildings during construction through a 'fabric first' approach. Developments that are still under construction that are adhering to old building regulations need to be brought up to date. Building Regulations set out minimum standards and do not provide a high aspiration in terms of performance; these need to be raised.

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

Design Codes can play an important role in improving the quality of design of a development; however, they need to be developed in conjunction with other assessments to ensure that they are workable and have real value. There is a danger that design will focus on the aesthetic of buildings; design is much more than this. Design Guides will need to encompass all aspects of design – materials, scale, orientation, functionality, connectivity, massing and layout.

Guides should be prepared with input from local communities and truly reflect the local characteristic of the area. It will be important that design guides and codes are not overly prescriptive. This will help to ensure lookalike schemes are not produced which do not respond to local landscape and urban character. The level of detail and prescription that will prove functional is dependent on the size of the geographical area that the design guide and code relate to. A smaller geographical area, will achieve much more than a national or regional design code or guide.

A front-loaded process of engagement and involvement could potentially squeeze out opportunities for local scrutiny, removing democratic oversight and opportunities for community involvement on an ongoing basis. This risks a backlash from residents who will feel powerless to have a say on their local area over the long term.

Design guides and codes should make best use of existing characterisation research including publications from Historic England and Natural England regarding urban surveys, landscape characterisation and national character areas, together with local studies.

The production of design guides and codes will have an impact on current LPA resources. A number of local authorities do not have in house specialists with the expertise to produce design guides and codes. There will need to be additional resources provided to Planning Services both in terms of training, development and additional staff to ensure these can be delivered by a multi-disciplinary professional team.

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

Yes. The proposals will require a step change in the design skills available to many local planning authorities; resourcing over the long term will be vital.

Chief Officer posts should require appropriate professional design or place making qualifications and expertise, not just general management.

A new body supporting building better places through design review and guidance could also act as an “ombudsman” on design issues, providing some form of process for resolving design-based conflict within application processes without the need to go to a full appeal. Giving LPA’s the confidence to take a hard line on design quality, knowing that conflicts could be resolved swiftly, and that the adjudicator would be appropriately qualified/experienced.

The new body could also learn from the back catalogue of Cabe/cabespace which championed the use of enablers formed of experienced professionals from a range of design and built environment professions.

LPAs should be able to refuse planning permission and receive support at appeal from PINS because of poor quality design, even if the density and use is considered appropriate.

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

Yes. Government should be leading by example through Homes England developments. In the experience of Colchester, a Homes England owned land development did produce better designed housing developments. However, it only has significant impact if Homes England are going to develop land at significant volume. Homes England disposing of land on the open market does not achieve this aim.

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

No. This needs to consider other constraints such as infrastructure, affordable housing provision and environmental impacts alongside the design of the proposal and any other material planning considerations. A proposal should not be granted permission on the basis of beauty alone. Who decides what is beautiful? Beauty is too subjective.

Achieving beauty is rarely a fast process it generally requires prolonged negotiation to achieve a contextually appropriate design response. Good design is not achieved through the application of rules but is contextual. A standard 8 week determination should be the base line of an “automatic permission” under the ‘fast-track for beauty’ and a mechanism should be built into the system to ‘stop the clock’ on applications that fail to deliver beauty (or meet the appropriate adopted design requirements) in order that revisions can be sought, putting the onus on applicants to minimise delays.

The use of ‘pattern books’ in building design pre-dated our understanding of the importance of local character in built heritage and landscape and if reintroduced could see ubiquitous styles that pay no heed to local vernacular, character or materials being used inappropriately. It could also stifle innovation in design resulting in pastiches of local vernacular as at Poundbury in Dorset. It is not clear how this approach would ‘*foster innovation*’ or why it would enable ‘*... modern methods of construction to be developed and deployed at scale*’. Relying on ‘*...what options are most popular with the wider public*’ is not a recipe for good design or beauty and pattern books will need to be developed within the context of local design codes, guides and character shaped by local professionals.

The fast track for beauty should not be used a way of demolishing awkward heritage or remove other contributions to the natural and historic environment. Developers should be encouraged to incorporate these challenges into master planning to enhance settings and make these even more beautiful. Some historic assets may not be considered ‘beautiful’ but are considered to have iconic architectural and design merit such as the Battersea Power Station.

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

All development needs to be appropriately designed and create a quality and sustainable place; from there, affordable housing and infrastructure are priorities.

Community Infrastructure Levy and Section 106 (Planning Contributions)

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?

Simplifying the existing system by combining CIL and S106 is agreed in principle. It is important that it does not function as a tax on development but as a means of delivering the requisite infrastructure to support communities.

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

The Infrastructure Levy should be set locally to respond to the local market conditions.

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?

The White Paper does not appear to consider that Section 106 is used to secure many provisions, such as community facilities, education provision, allotments, green spaces, sport provision, as

well as Affordable Housing. It is welcomed by the Council that the identification of affordable housing provision is of key importance, however there are also other locally important provisions which need to also be considered and the same amount of value provided as a minimum.

Either through the existing CIL and Section 106 system or as through the proposed Infrastructure Levy, the same issue is apparent. There is an overall maximum contribution that must be shared across a number of contributions. The threshold of viability needs to be reviewed as the established approach that allows a return of 17-20% return as gross developer profit is unprecedented in any other industry. The Levy needs to be sensitive and variable to support and encourage development in more marginal areas and conversely to secure a greater contributions from more affluent areas. Standardised tariffs fail to acknowledge the sensitivity and complexity of local housing markets and need to be grounded on local viability evidence.

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

It should be permitted but not expected in all instances. There are occasions where forward funding is appropriate i.e. to deliver enabling infrastructure such as a new road. However, there should not be an expectation that LA's will borrow money to deliver infrastructure because all the risk will sit with the LA: there is no guarantee that the development will proceed and/or complete or that levy will be paid; and basing the Infrastructure Levy on final sales values introduces another unknown into the equation.

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

Yes. In its current form changes of use to residential through Permitted Development Rights result in no contributions to new schools, public transport or green spaces for families living in the new homes. In addition there are no contributions (units or funding) towards much needed affordable housing.

Affordable Housing

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

Yes, we agree that the Government should aim to secure at least the same amount of affordable housing under the Infrastructure Levy and as much, or even more on site as at present. Greater support should be given to the types of affordable homes subject to the greatest demand.

Affordable Housing has to be truly affordable to local households. First Homes being included as affordable housing tenure is not acceptable to meet local housing need.

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?

The in-kind payment option could create conflict because if affordable housing were to take priority over the other priorities then it could erode the levy that is payable, particularly in areas where the sales values are highest. Sales values across the local authority can vary significantly. The 'in kind payment' in the more expensive areas would be proportionately higher, than in the less expensive areas because the discount would be much higher. This could result in the affordable housing disproportionately being delivered in the less expensive areas where the 'in kind payment' does not erode the infrastructure levy as much.

The Right to Purchase seems like a more sensible option, but it is important that the affordable housing is identified at the design stage. It is not so simple to "flip" the tenures or decide which

units will be affordable once the scheme has reached practical completion. This is because homes designed and built as market housing may not represent value for money for a housing association or the council (if they have en-suites and garages etc) or may have higher service charges due to lifts and estate management services which may be designed out of affordable housing schemes to keep service charges as low as possible.

If there are no minimum space standards set, sometimes market homes are too small and compromise living standards. It should not be the developer who has discretion over the dwellings that are sold in this way. The Local Authority should have the powers to negotiate a fair proportion and dwelling type and mix based on evidenced need. We do not agree that there should be no on-site affordable housing on smaller sites, unless the definition of smaller site is 10 dwellings or less, or 5 dwellings or less in rural areas.

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

The in-kind delivery approach should not be taken, but if it is, then there should be no mitigation against local authority overpayment. This is because if the in-kind payment is greater than the levy liability then this indicates strong sales values and so the local authority should share the benefit of that.

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?

There should be minimum design standards set nationally for all newbuild homes to support affordable housing quality and long-term resilience to minimise maintenance and fuel poverty.

*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?*

Yes. Without a ring-fence there is a danger, in these times of constrained public finances, that any infrastructure levy could be used to provide other forms of infrastructure/offset borrowing. This may be a particular risk in areas where affordable housing is unpopular.

Equalities

26. Do you have any views on the potential impact of the proposals raised in this consultation on people with protected characteristics as defined in section 149 of the Equality Act 2010?

The White Paper does not consider the housing needs of those most vulnerable groups including but not limited to elderly, disabled, armed forces and rehabilitated people.