

Planning White Paper consultation questions and suggested response

Q1- Q4

The Council has not responded to these questions because they seem to be directed more towards members of the public.

Proposal 1

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

No. The increased importance of design guidance/codes and the principle of simplifying Local Plans by making them shorter, more visual and based on standardised data is supported. However, the Council has overarching concerns about the changes to Local Plans. Firstly, the zoning proposals will not simplify and stream-line the plan-making process in practice. Secondly, insufficient consideration has been given to strategic planning and strategy. Thirdly, the proposed changes potentially reduce local democracy.

The Council does not agree that the creation of zones will speed up and simplify the Local Plan process because in practice the local authority's decisions about the allocation of land will still need to be based on considerable evidence. Even if key constraints are excluded from the process by being defined as 'protected zones', various technical assessments relating, for example, to infrastructure, green belt, landscape, ecology, transport, noise and air quality will still need to be undertaken at a local level to inform robust decisions about site suitability and selection. Indeed, proposals for permission in principle mean more detail and evidence will be required than the current system. This frontloading to the plan making process will increase the resources and time council's need to produce a local plan. The White Paper provides no detail about how the zones (sites) are to be effectively assessed so unrealistically oversimplifies the process.

Secondly, the zoning proposals do not mention the role of strategic planning and strategy. Presumably the definition of zones is implicitly underpinned by a strategy, for example, whether to extend existing settlements or create a new town or whether existing employment areas are protected or should be redeveloped. The strategy for an area has a key role in shaping high quality, sustainable places and should be explicitly part of the Local Plan process. Likewise the consideration of strategic issues should be addressed upfront to ensure wider, cross-boundary economic, social and environmental needs and issues are addressed.

Thirdly, whilst elected Members will be able to engage in the zoning of land in the Local Plan (although as outlined in response to Q.12 it will be difficult in the 30 month timetable) the proposals for a national, binding housing target will mean they will no longer be able to consider and inform the appropriate housing requirement for East Herts. Given that this figure, will underpin the subsequent content of the Local Plan, this reduces local democratic involvement.

Proposal 2

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

The Council partially supports this proposal. Proposals to streamline development management policies and introduce some standard policies in the National Planning Policy Framework (NPPF) are welcomed. It will reduce the length of Local Plans and avoid unnecessary duplication of generic policies. However, in some cases, the consideration of local context is essential and the Council is concerned that this proposal fails to acknowledge the importance of local nuances. It raises questions about how locally specific issues such as, the provision of open space, parking standards and local design context will be taken into account. It is understood that in growth and renewal areas the Local Plan can include area specific DM policies to address these issues, but what about for applications

that come forward in the protected zones? Plans are likely to need to have flexibility to include some locally specific development management criteria for all areas of the district.

With regard to consideration of optional standards, such as those relating to space requirements and water efficiency, these could be made mandatory and introduced through national planning policy or building regulations.

Proposal 3

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

Yes, the current tests of soundness are too complicated; they create delays in the Local Plan process and are difficult for the local community to understand. A consolidated test of 'Sustainable Development' is welcomed in principle but would need to robustly consider the environmental consequences of plans. Further information is needed to provide more details about what the test will involve, and it should set out the weight given to the different strands of sustainable development.

To make the process workable at examination it is vital that the Planning Inspectorate are supportive of any new soundness test, so consideration must be given to how this will be ensured..

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

Whilst the Duty-to-Cooperate has many challenges, it has generally worked effectively in East Herts. The Council has managed to co-operate with its neighbours to meet local need and allocate strategic, cross-boundary sites, most notably Harlow and Gilston Garden Town.

Councils within Hertfordshire have a tradition of joint working and have set up the Hertfordshire Growth Board to oversee long-term growth in the county. As outlined in our response to Q5, the Council is disappointed that the White Paper makes no reference to the importance of strategic planning and the role it plays in addressing cross-boundary issues. Different functions are managed at different scales and many issues that underpin the delivery of sustainable growth depend on vision, planning and funding on a larger scale. For example, there is no mention of how development will fund wider strategic transport projects by allowing for cross-boundary working arrangements or in terms of a specific strategic infrastructure delivery framework. Likewise, East Herts' strategic housing market and functional economic market extend beyond the district boundaries, what are the cross-boundary mechanisms for addressing economic growth and un-met housing need if an authority is unable to meet its housing targets? Hertfordshire's Local Enterprise Partnership (LEP) has published a report¹ highlighting the significant loss of employment space in Hertfordshire over the last ten years, which is primarily due to a lack of available employment land exacerbated by the loss of existing office space to housing through permitted development. The report identifies a range of solutions which are underpinned by partnership working across Hertfordshire.

A one-size fits all may not be appropriate as it will depend on the local circumstances and working arrangements. However, it is a missed opportunity for the White Paper to ignore the role that strategic planning should play in the reformed planning system. Therefore, if the Duty to Co-operate is removed it is essential that mechanisms are put in place to provide more detail and clarity about how cross boundary issues are to be addressed in the plan-making process and how they are then delivered and funded. This should include legislation on how aviation growth/ development will be incorporated into the system going forward.

¹ Loss of Employment Space in Hertfordshire (2019) Hertfordshire LEP

Flexibility is needed for where situations/proposals change over time; however, it is important for mechanisms to be in place to ensure that local authorities can be confident that necessary infrastructure will be delivered to support development in a timely manner.

Proposal 4

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

The Council supports the need to take account of constraints, including the Green Belt, when establishing housing requirements but does not agree it should be a binding requirement and is unclear how constraints will be assessed at a national level. Also, as outlined in response to Q.5, if the housing target is set nationally there will also be no opportunity for local scrutiny, particularly by elected Members, which has a detrimental impact on local democracy. It is also unclear how this national target approach will enable strategic housing delivery issues to be addressed, such as meeting unmet housing need.

Any requirement will need to assess beyond just brownfield opportunities but 'total opportunities' as well as constraints. For Councils such as East Herts, with large amounts of land within the Green Belt, how will the housing requirement be determined in practice? Will all the Green Belt be considered a constraint? If not, how will the Government determine which parts of the Green Belt are a constraint and how will that inform the binding housing requirement? Such decisions would need to be informed by strategic Green Belt review which will be difficult at a national scale. If local evidence is required to inform the process, this will have further resource implications on the local authority which should be considered. There is also no clarity if a council will be able to

challenge the target if they feel they have evidence it is not deliverable.

In addition to land designations, infrastructure constraints and funding should also inform the binding target because this is likely to be a key issue informing spatial options for growth in East Herts. Furthermore, more clarity is also needed about cross-boundary implications if some local authorities cannot meet their full housing need requirement due to constraints. Will un-met need be then allocated elsewhere?

The Council notes the removal of five year housing land supply (5YLS) and the retention of the housing delivery test. Presumably land supply will still be retained to a degree through the Local Plan process to ensure that needs are being met. The Council is concerned that the housing delivery test is crude and any failure to meet the housing need means that local planning authorities will be punished through the presumption in favour of sustainable development. There needs to be an acceptance that macro-trends also play their part in housing delivery (Brexit, COVID-19) and will result in direct impacts on the housing market that the LPA is not responsible for. A buffer, or a transition period, should be built into the Housing Delivery Test again to account for uncertainties such as the aforementioned.

The Council welcomes some of the proposed changes to the standard method; notably that it will use the latest ONS population and household projections, and that it will take account of the number of homes already in an area.

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

No, in many places where affordability is at its worst, the land supply is not available and so increasing requirements will not necessarily

deliver the required outcome. A focus on providing more affordable housing (without the need for additional market housing) in locations where affordability is poor would be a more sensitive response. There is much emphasis on the housing requirement fixating on areas of poor affordability. Whilst the principles of supply and demand are noted and this method is trying to address land supply as the key factor in poor affordability, the government should also publish and provide the evidence they are relying on for this definitive relationship between supply and affordability. Affordability has a disproportionate impact on areas under the new standard method and as such the evidence that defines that affordability will be addressed by a supply increase should be available when further details are available.

Likewise, if affordability does start to improve due to an increase in supply, will local planning authorities/national government have the tools to ensure that the private sector continues to deliver housing for sale at reducing/plateauing prices?

Proposal 5

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

There are huge resource implications for the Council both in terms of the size and skills of the planning policy team. Given the increase in work that the proposal would involve and the tight timescales proposed, it is difficult to support the proposal without additional information and resource commitments.

The principle of development is already established in the current system of site allocation. The key change is that permission in principle combines the allocation and outline planning permission stages within the Local Plan process. This means technical assessments normally submitted and assessed at the outline

application stage addressing issues such as transport, noise, landscape, ecology and air quality will need to be completed as part of the development of the Local Plan. It is unclear if this additional evidence will need to be produced by the local authority or developers but it is not feasible to propose this without increased time and resources. If speed is prioritised above the need for robust evidence to determine the extent of the growth zone and the scale/nature of substantial development, there could be a detrimental impact on quality.

Proposals for producing design codes and masterplans for growth areas within or alongside the Local Plan have further resource implications for Local Plans, particularly during the transition period when officers will be trying to produce these documents, whilst still determining applications under the existing system. The Council supports the use of masterplanning and currently all strategic sites in the Local Plan and all significant development proposals are subject to masterplanning before an outline application is submitted. The White Paper suggests masterplanning and design coding should be a condition of permission in principle, either as part or subsequent to permission in principle. To ensure high quality development, the Council thinks collaborative masterplanning should inform permission in principle, as it currently does in the case of outline permission. For this approach to be successful funding and time will be needed. Developers would need to be involved upfront to help fund work involved.

There is limited discussion of the reserved matter phase or local development orders, apart from comments that community engagement will be frontloaded to the Local Plan process and 'streamlined' at the development management stage. Further clarity is needed about if/how elected members, stakeholders and the wider public are engaged at the detailed consent stage. Development Management Committees are an important part of the democratic process and they need to be retained. More clarity is

needed about the important role of councillors in the decision-making process.

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

The Council welcomes the need to protect some land from development and supports the need to continue to submit planning applications (as in the current system) in protected areas. It is important that protected areas incorporate both designated and non-designated assets and are informed by local evidence. It is vital the right land is protected and evidence will be needed to inform this decision, for example if there is key green infrastructure or Green Belt that must be protected. Without technical evidence to support decisions, designations are likely to be challenged. Again this raises questions about if the local plan timetable is realistic.

More clarity about the consent in renewal areas is needed as it is fairly complex. As outlined in response to Q20 more approval is needed about the 'pre-approval of popular and replica designs through permitted development' in renewal areas. It could help speed up the decision process but the Council is concerned that consideration of local design context is not lost and replaced by standardised development. The White Paper does indicate that prior approval by the Council would still be needed in these circumstances and this could take account of local design considerations. In principle this could mitigate the Council's concerns so it is considered very important.

Likewise, proposals for a faster planning application process where development conforms with Local Plan criteria needs more clarity. It suggests considerable detail will once again need to be frontloaded in the local plan and in reality there are still likely to be cases where development does not meet with the 'rules' completely and cannot be fast tracked.

There is also no information about consent for non-residential development, which needs further explanation. For example, how can designated employment sites, which are likely to be in renewal areas, be protected? Permitted development for office to residential conversion has had an impact on the supply of employment land in East Herts and it is important that this issue is taken into account. Whilst the use of Local or Neighbourhood Development Orders is potentially supported, particularly as these could address detailed issues, it does need to be acknowledged that their preparation will have further resource implications for LPAs as it is anticipated that these would be prepared in parallel with local plans.

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

No. The Council does not consider that there is a case for bringing new settlements under the NSIP regime, as this would entirely remove the matter from any local control and community engagement.

Proposal 6

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

The Council supports the principle of speeding up decision making and the development of digital innovation, including the use of standardised data and templates in the planning system. However, measures to speed up the process, should not be at the detriment of the quality of development or local democracy. The effectiveness of a more rule-based, streamlined system will depend on significant investment in effectively resourcing a more frontloaded local plan system, developing fit-for purpose design codes and investing in technology. Will the Government fund LPAs to invest in technology and to develop skills and staff experience?

It should be recognised though that digital solutions are not always the answer and don't automatically equate to accessibility. For example, physical site notices are useful for people who can't or may not find information on the internet or social media. Caution should be taken about automated decision processes because there may be many 'grey areas' in terms of how proposals relate to the rules, which require professional planning judgement and negotiation. Also as outlined in response to Q9, more clarity is needed about the role of the elected member in the decision-making process.

It should be noted that often the extensions of time for planning applications are due to inadequate information being submitted with an application or at an applicant's request, to avoid a refusal by allowing time for amendments. Equally, the high workload of statutory consultees means that consultation responses are often submitted late, which delays the determination process. By enforcing firm deadlines the Council may inadvertently cause more refusals and a more frustrating process for applicants. Sanctions should be introduced for applicants providing incorrect or insufficient information. There could be support for a more rigid validation process which should ensure information is submitted at the right time. Proposals for applicants to receive an automatic rebate of their planning application fee if they are successful at appeal, is not supported.

Standard national conditions are a good idea for all general conditions, but bespoke conditions must still be allowed (where justified) in order to reflect site specific circumstances otherwise this will result in applicants needing to provide potentially vast amounts of detailed information at application stage, which can be costly and if the application ends up being refused they will have wasted money.

Proposal 7

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

Yes, the Council welcomes proposals for Local Plans to be standardised, based on digital technology and more visual and map-based. It will make information easier to understand and more consistent nationally. However, this will be dependent on significant investment in IT systems and an increase in digital skills in the planning team. GIS expertise will be particularly needed. Will Government funding be available to support LPAs in this process? It should also be considered that not all sectors of the community have access to digital technology and it will be important that these people are not disadvantaged and are still able to engage with the process.

Proposal 8

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

No, as set out in response to questions 5 and 9, the 30 month statutory timetable is unrealistic, especially given proposals to frontload more information into the Local Plan process. 18 months to develop the plan before submission underestimates the amount of time needed to undertake a call for sites, make evidenced and informed decisions about the allocation of zones and write area specific criteria.

The council is concerned that not enough time has been allowed for the democratic reporting and decision-making processes between stages to enable a robust assessment of submissions. Given the differences in size and density of local authority areas and different growth opportunities, there should be flexibility in the approach to

ensure that necessary processes can be followed properly. Many areas, like East Herts will attract higher levels of public engagement than others and the resource implications of this need to be addressed, particularly as many planning authorities are constrained by budgets and staffing levels. It is suggested that a more flexible approach to timescales is taken forward to reflect the varying growth and constraint issues across different local authorities.

The Council does not support removal of the 'right to be heard' at examination or the abolition of the examination process because it restricts the democratic process for both the local community and developers.

Proposal 9

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

Yes, neighbourhood planning should be retained. The process is important in East Herts as it has a strong tradition of neighbourhood planning across the district.

If retained, they should have a clear and focussed role integrated into the reformed planning system. Currently Neighbourhood Planning, local planning policy and national policy overlap with frequency, repeat and add unnecessary conflicts whilst the role of neighbourhood plans varies significantly between Plans. Neighbourhood Plans have the potential to add detail where a strategic plan, or District-wide Plan, cannot – however the role of neighbourhood plans needs to be clearly established. If the role of neighbourhood planning is to change, then the implications of such a changed role also need to be considered. Will their role require further specialist assistance and resourcing to be available, the grants payment currently do not cover the costs of specialist advice and as such if further burdens are increased then the grants will also need to be considerably increased. The burden on the Local

Authority also needs to be considered. Currently an LPA spends a considerable amount of time and resource under the duty to assist and fulfilling its statutory duties. Again the grants payments do not cover the costs and as such they should be increased with any shift in role.

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

Neighbourhood planning has potential to engage the local communities in local design guides and codes. However, it is unclear how neighbourhood plan decision-making will fit into the new zonal approach. The scope and role of neighbourhood planning will depend on the zone the neighbourhood area falls within, so more clarity is needed about the influence of neighbourhood plans in decision-making.

Resources will need to be made available if groups are to create more digital plans and lead on design codes. They are unlikely to have the budget or expertise to take these issues forward. If not, they will have to rely increasingly on help from the District Council, which will create an additional burden on resources, which will already be significantly stretched by the other changes to the planning system.

Proposal 10

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

Yes, there should be a stronger emphasis on the build out of developments. A variety of development types by different builders may be suitable for some developments, but not in all cases so there needs to be a flexible approach.

The main issue in East Herts around build-out rates is difficulties in the latter part of the planning process, as well as delays between granting permission and commencement on site, for those sites that need to discharge conditions. Therefore, the proposal should allow local planning authorities to set requirements that conditions should be discharged. A requirement to start on site within shorter timescales would be welcomed.

Furthermore it is not only the planning system that prevents development coming forward. Of greater concern is the need to empower local authorities, perhaps using legislation, to ensure that allocations get brought forward in a timely manner and that 'land banking' does not continue to be habitual in many cases across the country. Land-owner negotiations/disagreements can often cause difficulties. East Herts has a number of examples of larger sites (those with the highest potential build-out rates) where the main cause for delay has been due to the interests of private individuals, in this case the land owners. Any tools that would allow the local planning authority to require that allocations are treated as a single application (not divided to suit ownership) would be welcomed.

Q.15- Q.16

No response suggested for either Q15 or Q.16 as these questions appear aimed at the public.

Proposal 11

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

Yes, the council is supportive of the production of national and local design guides and codes. However, their effectiveness will depend on further detail about their scope and remit, to ensure they are fit for purpose and deliverable. Successful community engagement will be an important part of the process and further guidance about

successful methods of public engagement in design code production would be helpful. Design is often subjective and clarity will also be needed about who arbitrates over the final code. Consideration should also be given to the process for revising codes and guides and how that is managed if there are changes to national policy or local circumstances.

Appropriate resources will be needed in local planning authorities to allow for the production of these guides and codes. Even if LPA's rely on support from consultants, in-house expertise will be essential to ensuring high, quality, effective codes. Will Government funding be made available to LPAs to support this process?

Consideration must be given to the weight of the design code in decision-making. If it is embedded in the Local Plan it will have more weight than if it is supplementary to the plan. However, this may only be practical for fairly high-level codes and more detailed coding may need to be in a separate document. Clear legislation and guidance will be needed to clarify the status of these documents in order to avoid delays to development and housing delivery if developers disagree or challenge site specific codes.

Proposal 12

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

Yes, a new national body and the principle of a chief officer to oversee and prioritise design is welcomed.

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

Yes, leading by national example would be helpful.

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

Firstly, good design is about more than beauty so the terminology is unhelpful. However, the requirement for a masterplan or design code in 'Growth areas', is supported, subject to the issues raised in response to Q17.

Pattern-book designs could improve the plethora of differing PD-rights related extensions and alterations that have blighted many existing urban areas in recent years. However, the Council is concerned the 'pre-approval of popular and replica designs through permitted development' in renewal areas could result in identikit development across the country – much the same as post-war council housing – which would not reflect the local vernacular and could lead to the standardisation of development rather than the quality designs and layouts that the Council has been seeking through the Masterplanning processes it has been following in recent years. Clarity is needed to ensure that the consideration of local design in any prior approval process is robust. More thought needs to be given to the practicalities of this, as the assessment of proposals can be time consuming and capacity is an issue in LPAs, so may not be easy to fast-track.

There also needs to be a significant investment in planning enforcement to go alongside this, with increased penalties for those who do not follow the rules.

Proposal 15

The Council supports a strengthened role for the planning system in mitigating and adapting to climate change and maximising environmental benefit. However, the Council would like to see much more detail in future legislation and changes to the NPPF. Changes should also come alongside mandatory changes to requirements in

terms of building standards, energy efficiency and zero carbon developments to help meet national and local climate change commitments.

Proposal 16

The Council recognises that sustainability appraisals, habitat assessments and environmental impact assessments are expensive and time-consuming for local authorities/ developers and welcomes a separate consultation in the autumn on proposals for a simpler system. However, it is important that the environmental impacts of development are still fully assessed.

Proposal 17

The Council welcomes the continued emphasis on conserving and enhancing the historic environment in the new planning system. Guidance from Historic England needs to be updated to allow for the sympathetic updating of historic buildings to address sustainability and energy efficiency concerns. These changes need to be evidence based.

The Council is however concerned that allowing architectural specialists to have autonomy from routine listed building consents, could represent a conflict of interest. Experienced architectural specialists would need a licence or accreditation scheme. This could be taken away from a practitioner if they were later found to be unsuitable. This needs a national body to be set up to deal with the running of this scheme. A prior approval process should be put in place to ensure works are appropriate and suitably recorded.

Proposal 18

The Council welcomes the commitment to progressing net zero carbon homes and awaits clarification about the role of local planning authorities in the response to the Future Homes Standard

consultation in the autumn. The Council hopes planning authorities will retain flexibility to exceed building regulation requirements and that the Government will provide more clarity on the role of non-residential development in mitigating climate change.

It is agreed that the environmental performance of buildings needs to be enforced, although this will require staff training and additional resource, unless officers are to be reallocated from other enforcement duties.

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

No response suggested to Q.21 because it appears to be aimed at the general public.

Proposal 19

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

It is acknowledged that Section 106 negotiations are a major factor in the time taken to determine planning applications. However, the Council is concerned that a flat-rated infrastructure levy will have no relationship to mitigating the impacts of the development. The flexibility of Section 106 agreements is an important means of ensuring the relevant infrastructure for a particular site comes forward. It is unclear how this will take account of local, site specific, viability issues. It could potentially mean that some more challenging, brownfield sites are not delivered because of viability concerns, which would be detrimental to objectives to re-use land. It is essential that the system is not manipulated by some applicants to avoid the delivery of much needed infrastructure contributions. The levy would avoid lengthy negotiations with developers (as is often the case with S106s) but would still need to make complicated

choices about how the pool of money is spent. The Council would need to spend and distribute funds with partners such as the local highways authority, local education authority, NHS bodies and town/parish councils. Choices will inevitably be influenced by wider financial and political considerations. It could leave some developments unsupported by the infrastructure they need to be genuinely desirable and sustainable. More clarity is needed to explain how new development will fund competing infrastructure requirements, including the local funding contribution obligations that are currently required under Section 106, such as open space. There would need to be a requirement in policy or legislation to ensure site-specific, Section 106 style requirements are met.

As outlined in response to Q7 (b) more detail is also needed about how contributions towards wider strategic or cross-boundary projects will be facilitated.

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

Costs can differ widely across the country, so no one size fits all would capture required amounts in higher cost areas. The system should allow for local weighting, as appropriate. The Council should have flexibility to inform any area specific rate for the district, either by setting it locally or informing a nationally set levy for the area. This process would however have resource implications, particularly at the start of the new system.

Q22 (c) Should the 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 levy should be set at the amount that will achieve necessary infrastructure, affordable housing and other community facilities without adversely affecting viability of schemes. If the levy is too low then vital infrastructure, affordable homes and community facilities

will face a funding gap and may not be provided; whereas if contributions are too steep then development may not be brought forward and delivery targets may be missed.

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

Yes, to ensure that delivery of necessary infrastructure is front-loaded, but only as long as there is a guarantee that the Infrastructure Levy funding would be used to offset this borrowing and the Council would not be out of pocket. This should not preclude developers from being able to deliver the infrastructure on behalf of local authorities as part of the planning approval. Given the potential risk of this approach for local authorities, it is important that clear mitigation measures are in place to manage risk.

Proposal 20

Q.24 Do you agree that the scope of the reformed Infrastructure Levy should capture changes of use thorough permitted development rights?

Yes, in order to expand the levy base, a reformed CIL must capture change of use through permitted development rights, especially given the increases in permitted development rights in recent years. There has been a significant number of office to residential permitted developments in East Herts. This often represents a significant uplift in value without any contribution towards the infrastructure needs the new dwellings generate or provision of necessary affordable housing.

It is likely that the amount of permitted development from offices to residential will increase in the coming years because of the likely decreased demand for office accommodation due to Covid 19 and

the shift towards home-working. These new homes would need to make some contribution to the levy base.

Proposal 21

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

Yes, much of the affordable housing in East Herts is currently delivered through Section 106 agreements. Therefore, it is vital that at least the same amount of affordable housing provision is secured and on-site provision is prioritised.

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

The Council prefers that affordable housing is secured 'in-kind' on-site because it is more responsive to local needs. It allows local authorities to be able to determine mix and tenure of affordable housing. Useful safeguards appear to be proposed to cater for issues such as adverse market conditions or if the housing stock is considered to be too poor quality for acquisition by housing providers.

The 'right to purchase' concept is more problematic as it could mean that housing sold at developer discretion in this way, will not meet local housing needs or high standards of design. Also, the proportion will be set nationally, so provides less flexibility to meet local needs.

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

Yes, there needs to be clear mitigation measures in place to manage risk.

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

Yes, *all* housing should achieve a high quality of design. The optional national minimum space standards should be mandatory, to ensure sufficient living space is provided.

Proposal 22

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

Fewer restrictions may be beneficial for local authorities as funding can be allocated more flexibly to meet local priorities. The Council should have the ability to use any Infrastructure Levy contribution for the benefit of the local community first, but with the ability to support other communities that do not have any specific funding from developments local to them. For example, this could benefit rural areas in East Herts which have less development but could receive funding to secure needed improvements to local facilities, such as play areas or allotments.

However, the Council is cautious about greater flexibility if it is at the expense of delivering the infrastructure required by the new development. There is only a finite amount of funding from new development and currently Section 106 does not fill the funding deficit.

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

Yes, if restrictions are relaxed affordable housing must be ring-fenced so that its delivery is guaranteed.

Proposal 23

The Council welcomes the commitment to invest in resources and skills. The proposed changes have huge resource implications for local planning authorities. The principle that the beneficiaries of planning gain- developers and landowners- help fund local planning authority costs for local plans, design codes and enforcement is therefore supported. However, it is questionable how much a 'small proportion of the levy' will be able to fund in practice. It will also be important that the money taken out of the levy to fund the planning service does not leave an infrastructure gap that then needs to be funded by the local authority. Therefore it is considered important the Government also commit funding to deliver the changes.

Proposal 24

It is agreed that stronger enforcement powers and higher fines may deter unauthorised works. A review of the court procedure is necessary. Proposals will require additional enforcement staff and legal resources.

Greater strength needs to be given in particular to local authorities' enforcement powers in respect of unauthorised traveller developments. In cases where local authorities are meeting identified Gypsies and Travellers and Travelling Showpeople accommodation needs, abuses of planning policies should not be allowed to be tolerated. Currently, lengthy appeal processes mean that travellers purchasing land and setting up unauthorised developments in advance of gaining planning permission have a

significant advantage. This is extremely costly for local authorities in both staff and financial terms. Greater penalties should be imposed, whereby if intentional unauthorised development takes place, it restricts planning permission. The ability to take early action should be approved to ensure that pro-active local authorities who are meeting their local demand and making appropriate provision for traveller accommodation needs are able remove unauthorised developments at an early opportunity, in the same way as dealing with unauthorised developments by the settled community. The conditions imposed on Gypsy and Traveller sites by Inspectors on appeal are also not workable in practice. This leads to continued breaches in planning control and difficulties with local communities.