



<b>Report for:</b>	<b>Strategic Planning and Environment Overview &amp; Scrutiny Committee</b>
<b>Date of meeting:</b>	<b>23 September 2020</b>
<b>Part:</b>	<b>1</b>
If Part II, reason:	

<b>Title of report:</b>	<b>Government Consultations on Changes to the Planning System</b>
<b>Contact:</b>	Councillor Graham Sutton, Portfolio Holder for Planning and Infrastructure  Author/Responsible Officer: <ul style="list-style-type: none"> <li>• Alex Robinson/ Stephen Mendham – Strategic Planning Team</li> <li>• James Doe – Assistant Director: Planning, Development and Regeneration</li> </ul>
<b>Purpose of report:</b>	To consult the Committee on the Consultation Papers: <ol style="list-style-type: none"> <li>1. Government White Paper “Planning for the Future”; and</li> <li>2. Government consultation “Changes to the current planning system”</li> </ol>
<b>Recommendations</b>	The Committee notes the draft response to the Consultation Papers and provides any views to be included in the final responses to be issued to Government.
<b>Period for post policy/project review</b>	Following the consultation period for the Consultation Papers which ends on 1 October 2020 the Government will publish its reports on responses. No date has been set for their publication.
<b>Corporate Objectives:</b>	To persuade and inform Government of the impact of any changes to the planning system proposed in the Consultation Papers. Responses to the Consultation Papers should support the following objectives: <ul style="list-style-type: none"> <li>• <i>Safe and clean environment:</i> e.g. support policies in the Local Plan that promote a safe built environment</li> <li>• <i>Dacorum delivers:</i> e.g. helps provides a clear framework upon which planning decisions can be made.</li> </ul>
<b>Implications:</b>	<u>Financial</u>  None directly associated with this report.  <u>Value for money</u>

<p>'Value for money' implications</p>	<p>Proposals contained within the Consultation Papers would if implemented contain a significant financial implication on the delivery of services to the local community. The responses seek to ensure that "value for money" would continue to be delivered.</p>
<p>Risk implications</p>	<p>The Consultation Papers are light in detail in a number of significant areas which makes a full risk assessment difficult at this point. A number of factors are apparent:</p> <ol style="list-style-type: none"> <li>1. This would be the most significant change to the planning system in over 70 years which potentially carries significant financial and human resources implications.</li> <li>2. The proposals contained within the Consultation Papers if implemented would limited local democracy at certain stages of the planning process.</li> <li>3. Potential delay to the current Local Plan making process as uncertainty is introduced as to future requirements and processes, including any transitional period.</li> <li>4. Uncertainty as to how infrastructure in the future will be funded and delivered.</li> </ol>
<p>Community Impact Assessment</p>	<p>Not required for the purposes of consultation responses.</p>
<p>Health and safety Implications</p>	<p>None directly.</p>
<p>Consultees:</p>	<p>Officers have been consulted on the draft responses to the Consultation Papers as follows:</p> <ul style="list-style-type: none"> <li>• Strategic Planning and Regeneration</li> <li>• Development Management</li> <li>• Strategic Planning Team</li> <li>• Strategic Housing Team</li> <li>• Corporate Director Housing and Regeneration</li> </ul>
<p>Background papers:</p>	<ol style="list-style-type: none"> <li>1. Appendix 1: Dacorum Borough Council Covering Letter</li> <li>2. Appendix 2: Draft Response to the White Paper (Planning for the Future)</li> <li>3. Appendix 3: Draft Response on changes to the current planning system.</li> <li>4. Planning for the Future – White Paper August 2020</li> <li>5. Changes to the current planning system - Consultation on changes to planning policy and regulations.</li> </ol>
<p>Glossary of acronyms and any other abbreviations</p>	<p>The White Paper: Government White Paper – "Planning for the Future" published on 6 August 2020</p>

used in this report:	<p>Second Consultation Paper: The Government consultation paper “Changes to the current planning system” published on 6 August 2020</p> <p>Consultation Papers: the White Paper and the Second Consultation Paper together.</p>
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## 1.0 Background to the Consultation Papers

- 1.1 On 6 August 2020 the Government published the Consultation Papers which contain a large number of proposed and radical reforms to the planning system.
- 1.2 The principal aim of the reforms proposed is to deliver more homes by way of a comprehensive overhaul of the planning system. The proposals “seek a significantly simpler, faster and more predictable system.”<sup>1</sup>
- 1.3 The reforms proposed in the White Paper are unlikely to be in place in the very short term, as a number of very significant issues would need to be addressed.
- 1.4 As a result, the current planning system will remain in place for some time before new legislation can be introduced and the detail of any transitional arrangements to be prepared by Government are known. In order to introduce reforms to the planning system in this intervening timeframe the Government are proposing a number of short term and easier to implement reforms in its Second Consultation Paper (Changes to the current planning system).
- 1.5 Whilst a number of reforms proposed in the Consultation Papers will be welcomed (such as the desire to speed up and simplify the plan-making and decision-making processes), there are many more proposed reforms that are of concern. These matters are detailed below.

## 2.0 The White Paper

- 2.1 The consultation seeks views on proposals for reform of the planning system and aims “to streamline and modernise the planning process, improve outcomes on design and sustainability, reform developer contributions and ensure more land is available for development”.
- 2.2 There are three pillars for reform which are supported by 24 proposals. The three pillars are:
  - Pillar One – Planning for development. A review of how development is planned.
  - Pillar Two – Planning for beautiful and sustainable places. Bringing a focus to design and sustainability.
  - Pillar Three – Planning for infrastructure and connected places. Reforming how infrastructure is delivered.
- 2.3 Whilst the White Paper has identified many symptoms of the problem in delivering more homes its proposed solutions seem misguided and unlikely to

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<sup>1</sup> Foreword from the Secretary of State to the White Paper

achieve their stated aims. Officers are concerned that there is little appreciation of the wider role of the planning system in delivering sustainable development, social, environmental and economic, which goes beyond the delivery of more homes. The recognition in the White Paper of the importance of planning to deliver wider policy objectives is welcomed. However, the White Paper does not look at the other key elements of development system that need to be addressed if the Government's stated objectives are to be achieved, such as the roles of the land market, the construction sector, and the issue of skills, resources and capacity across the planning system and those who are involved with it.

2.4 A number of key elements within the White Paper are set out below under the heading of each pillar.

<b>Pillar One</b>	
General approach	<p>A number of proposals will curtail local democracy, including the exclusion of local elected members from the decision making process.</p> <p>Front ended engagement with the community on plan making restricts local community involvement on development to plan making only. This is likely to be once every 5 years.</p> <p>A 30 month plan making window may not be feasible, especially as Design Codes for all growth areas need to be in place prior to adoption of a Local Plan.</p> <p>Delivering the reforms will be challenging to local planning authorities and delivery of the wide ranging reforms is unlikely to be achievable with current resources and budgets</p>
Simplification of the role of land use plans to three types of land (Proposal 1)	<p>The definitions of the proposed categories (Growth Areas, Renewal Areas and Protected Areas) are too broad and their simplicity belies reality.</p> <p><b>Growth Areas – land identified for “substantial development”</b></p> <ul style="list-style-type: none"> <li>• No definition is provided as to what may constitute substantial development.</li> <li>• Outline planning permission would be granted on adoption of the Local Plan. This is likely to slow down the plan making process as more detail would be required in Local Plans, such as infrastructure delivery, design requirements and completed legal agreements.</li> <li>• Risk that having to agree the above at plan making stage is too complex / difficult that it is not possible to secure quality development leaving developers with a free hand.</li> </ul>

	<p><b>Renewal Areas – land identified “where smaller scale development is appropriate”</b></p> <ul style="list-style-type: none"> <li>• It is unclear to what this may refer. Your officers consider that this would likely apply to the built up areas of settlements not falling within Growth areas.</li> <li>• It is stated to include areas of “gentle densification and infill”. “Gentle densification” is not defined and it is unclear if this may refer to a cap imposed upon places.</li> <li>• Current planning system allows for a range of developments to come forward and this may represent a retrograde step. It may also lead to a need to define multiple areas with different rules for each area.</li> </ul> <p><b>Protected Areas – would include sites and areas which, as a result of, their particular environmental and / or cultural characteristics would justify more stringent development controls....</b></p> <ul style="list-style-type: none"> <li>• Stated to include Green Belt, AONB land, Conservation areas, Local Wildlife Sites, areas of significant flood risk and important areas of green space and areas of open countryside outside land in Growth or Renewal areas”</li> <li>• It is light on detail including what may actually constitute some of the land mentioned above. It is unclear whether no new development would be allowed, under the current system some development may be permitted, such as the Green Belt. It is certain to convince the public that Green Belt is ‘sacrosanct’ when in reality the LPA will still have to meet Objectively Assessed Housing Needs, which in the Home Counties and other parts of Southern England is bound to lead to the need for green belt releases to meet the level of growth required.</li> </ul>
<p>Standard Method for establishing housing requirement figures (Proposal 4)</p>	<p>The suggestion that this should take into local constraints is welcomed. What is not clear is what those constraints may be and how they may be weighted in settling the final figure.</p> <p>The new method is still heavily driven by national policy objectives to achieve a target of 300,000 new homes per annum as opposed to more accurately reflecting likely local levels of housing need.</p> <p>Housing targets would be set by national government and would be ‘binding’ on local authorities. This represents the centralisation of housing targets and a further retrograde step for localism and local democracy.</p>
<p>Development</p>	<p>It is proposed to establish these at a national scale so that</p>

<p>management policies (proposal 2)</p>	<p>those contained within a local plan would be limited to necessary site or area specific requirements such as limits on heights and densities for land within Growth or Renewal areas. This would be achieved by making the NPPF the primary source of development management policies.</p> <p>Avoidance of duplicating nationally set and agreed policy is welcomed, but in practice there are likely to be very few policies that can be set at national level that do require any further local detail.</p> <p>The principle of a greater role for Design Codes prepared alongside local plans and the involvement of the local community in their preparation is welcomed with some reservations as set out below under Pillar Two.</p>
<p>Replacing the existing tests of soundness with a single statutory “sustainable development” test</p>	<p>The aim of simplifying the tests that a local plan must pass at examination in public is welcomed, provided changes demonstrably speed up and reduce risk in plan making. Duty to Co-operate requirements have proved difficult to satisfy for a number of local planning authorities recently resulting in the failure or withdrawal of local plans.</p> <p>Removal of the Duty to Cooperate test which has largely failed to deliver required outcomes is welcomed however, there is still a need to ensure that cross boundary concerns are addressed and it is unclear how those would be dealt with under a new regime.</p> <p>However, defining what constitutes “sustainable development” is unlikely to be a simple task and arguably the role of Sustainability Appraisals may increase rather than being abolished as proposed.</p>
<p>Streamlined Development Management Process (Proposals 5 and 6)</p>	<p>The main thrust of proposed reforms is to speed up the decision making process and to provide greater certainty. Main proposals to achieve this include:</p> <ul style="list-style-type: none"> <li>• Automatically granting outline planning permission for Growth areas and also automatic approvals for pre-established development types in other areas.</li> <li>• Greater digitalisation of the planning application process and shorter and more standardised applications</li> <li>• Modernisation of case management systems</li> <li>• Greater standardisation of technical supporting information (such as Design Codes), national data standards and templates.</li> <li>• A streamlined approach to developer contributions (further detail under Pillar 3)</li> </ul> <p>The true issue sought to be addressed is speed of process which could be resolved by proper resourcing under the current system rather than the proposed reforms which</p>

	<p>introduce risks of uncertainty and unintended consequences.</p> <p>The need to agree outline planning permission matters up front (at the plan making stage) rather than at application stage could delay plan making as more detail is required up front.</p> <p>Possible loss of local democracy and community involvement. Democratic involvement would be reduced to the plan making stage only as the opportunity for involvement (as now) with the decision making stage would be lost with the automatic grant of outline planning permission.</p> <p>Greater use of digital technology would have a number of benefits such as reductions in costs from postal and advertising costs and the possibility of greater automation of processes. Benefits would however be dependent upon appropriate resourcing and financing, including skilling and introduction of new systems. The White Paper is light on detail in these important areas.</p> <p>The proposal to rebate application fees where a planning appeal is successful needs much more consideration than is given in the White Paper, such as what would be the position with applications for retrospective consent.</p>
<b>Pillar Two</b>	
<p>General Approach</p>	<p>The creation of a fast-track system for beautiful buildings and establishing local design guidance for developers to build and preserve beautiful communities.</p> <p>All new homes to be 'zero carbon ready', with no new homes delivered under the new system needed to be retrofitted as Government seeks to achieve its commitment to net zero carbon emissions by 2050.</p> <p>The chief means of achieving those aims will be by production of Design Codes, a greater role for Homes England and a more standardised easily replicable approach to building design.</p> <p>There are concerns regarding possible erosion of local democratic input, protection of local character and of the local environment generally.</p>
<p>Design Codes (proposals 11 and 12)</p>	<p>The strengthening of the role of Design Codes with local input is to be welcomed and would play an important role in building trust and confidence in the planning system.</p> <p>The proposals suggest the appointment in each local authority of a "chief officer for design and place-making" and details are light on details on how:</p>

	<ul style="list-style-type: none"> <li>• this would be resourced and little consideration is given to an alternative of training and reskilling decision making officers; and</li> <li>• what this may add to the wealth good design guidance that already exists.</li> </ul>
Changes to national policy and legislation to introduce a fast track for beauty (proposal 14)	<p>Main risks with the proposals are:</p> <ul style="list-style-type: none"> <li>• Delays in local plan making until Design Codes are at an advanced stage.</li> <li>• An approach to standard design could potentially damage local character and it is unclear what would constitute “popular and replicable” design and “gentle densification”</li> </ul> <p>Such an approach may risk resistance to developments by local communities as failing to respond to local character and content.</p>
<b>Pillar Three</b>	
General Approach	<p>The proposals constitute a radical reform of the means by which infrastructure would be funded. Main changes include:</p> <ul style="list-style-type: none"> <li>• Abolishing the current system of s106 planning obligation agreements and CIL.</li> <li>• Introduction of a new national Infrastructure Levy (“the Levy”) with the intention of providing more certainty about the number of affordable homes being built.</li> <li>• The Levy to be set nationally based upon a flat-rate value based charge to be levied at occupation, with a value based minimum threshold below which the Levy is not charged.</li> </ul> <p>Infrastructure delivery is a fundamental pillar supporting the planning system and changes to it need to be considered very carefully. The White Paper does not provide enough detail on the proposed regime to be confident that the proposals involving the abolition of CIL and s106 Agreements will deliver the objectives that the Government seeks.</p> <p>The White Paper does not address the issue of developers, landowners and their agents not being sufficiently attuned with requirements for infrastructure, and its costs, at the land acquisition stage and thereby making sufficient provision in agreeing land values which goes to the heart of viability.</p> <p>The current system could be improved by standardising the contents of agreements covering this aspect and providing greater transparency in costs.</p>



<p>Reform of CIL and scope of The Levy (proposals 19 and 20)</p>	<p>More detail is required to comment meaningfully and in places the proposals appear to be contradictory.</p> <p>The White Paper mentions the planning system needs to be more responsive to local circumstances yet seeks to create a nationally set levy and a flat rate is unlikely to be responsive to local circumstances.</p> <p>Timing of payment would be change, from the existing arrangement of commencement of development to date of occupation. Whilst there may be some merit in this change for smaller developers for volume developers this may mean significant delays in the funding and timely delivery of required infrastructure and thereby failing the needs of local communities.</p> <p>CIL currently cannot capture much of infrastructure provision that may be needed where development takes place through use of permitted rights (PDR) which are increasingly being used, such as conversion of offices to residential use. The proposed extension of the Levy to capture changes of use through PDR would help address this shortfall.</p> <p>However, little detail is provided in the White Paper as to how this proposal would work in practice, including who would enforce it and how.</p>
<p>The Levy and Affordable Housing (proposal 21)</p>	<p>It is unclear from the proposal whether more or less affordable housing would arise, if the proposal were to be implemented, compared to the existing arrangements. The risk is arguably greater if the Levy is a nationally set figure.</p> <p>The proposed simplicity of the new system must not lose the ability to capture excess value created in sites.</p>
<p>Strengthening enforcement powers and sanctions (proposal 24)</p>	<p>The principle is to be welcomed although the White Paper is very light on detail as to how this will be achieved in practice. It ignores key areas such as resourcing and the existence of tools already available within the current system. The current system would be much more effective with the provision of adequate capacity and funding.</p>

2.5 The Officer view is that the draft response set out in Appendix 1 should be sent.

**THE SECOND CONSULTATION PAPER (CHANGES TO THE CURRENT PLANNING SYSTEM)**

3.1 The consultation seeks reforms to the current planning system and accompanies the White Paper. Whereas the White Paper seeks to introduce a

long term reform of the planning system the Second Consultation Paper sets out shorter term proposals seeking to improve the effectiveness of the current system.

3.2 The four main proposals are:

- Changes to the standard method for assessing local housing need.
- The securing of First Homes, through developer contributions in the short term, until transition to a new system
- Lifting the small sites threshold below which developers do not need to contribute to affordable housing
- Extending the current Permission in Principle to major development

3.3 A number of key elements within the Second Consultation Paper are set out in the table below.

Subject	
The Standard Method for assessing housing numbers in strategic plans	<p>The current method comprises a baseline of household projections, which are then adjusted for affordability and capped to limit the increase for a specific area. However, these household projections have attracted criticism as they can result in artificially low projections in some places, where overcrowding and concealed households suppress the numbers.</p> <p>The new method will take into account a percentage of existing housing stock levels, which takes into consideration the number of homes that are already in an area. This will make allowances for diverse housing needs in all parts of the country. The aim of this new method is to allow the Government to hit its target of delivering 300,000 new homes a year, and a more appropriate distribution of homes. It is very much a temporary measure in advance of the wider ranging and binding reforms proposed in the White Paper.</p> <p>Whilst it will increase the national housing need on the current calculations it would see Dacorum's housing need decrease slightly from the current 1023 dwellings per year to 922.</p> <p>Officers have concerns that reliance placed on a single source of information to set the baseline as suggested of 0.5% of national housing stock is too simplistic and setting housing targets needs to factor in local as well as national strategies. It is clear, from the separately published Planning White Paper that the calculation will be adjusted to take into account of local constraints; it is however unclear how these local constraints will be weighted. Moreover, the standard methodology will be binding on local authorities and yet there is no indication that the local authority will have the opportunity to inform the figure.</p>

	<p>The proposed transitional arrangements for Local Plans in preparation ignore the significant impacts that changes to housing numbers can have on the preparation of local plans and does not allow sufficient time for these to be properly assessed and included in emerging local plans</p>
First Homes	<p>The Second Consultation Paper proposes that a minimum of 25% of all affordable housing units secured through developer contributions should be First Homes. This would be a new form of Affordable Housing to support first time buyers, initially secured through S106 planning obligations but, as stated in the White Paper, would subsequently be secured through the newly proposed Infrastructure Levy upon abolition of s106 arrangements.</p> <p>The imposition of a national 25% figure for First Homes removes the ability to address local priorities properly and risks not satisfying evidenced local need. In Dacorum the priority is for rented affordable housing, especially social rented housing. There is a concern that this ‘top slicing’ of the affordable housing requirement to First Homes will lead to less genuinely affordable homes being available for rented accommodation.</p> <p>The proposals emphasise home ownership and Dacorum’s evidenced need is for a lower figure than 25% for such affordable housing.</p>
Supporting small and medium sized developers	<p>With the aim of supporting SMEs it is proposed to increase the threshold for sites where affordable housing is to be sought from 10 to 40 or 50 new homes. This will be introduced for an initial period of 18 months and will be achieved by changes to national planning policy.</p> <p>Within Dacorum’s area the vast majority of schemes are below 50 new homes and the proposal is likely to curtail future contributions toward meeting affordable housing need.</p>
Extension of Permission in Principle (PiP)	<p>It is proposed to remove the restriction on PiP on major development thereby allowing a greater range of sites to come within the PiP regime. Some restrictions will remain (such as EIA and Habitats) and PiP will not be suitable for sites capable of delivering over 150 dwellings or more than 5 hectares. For commercial development, the consultation proposes to remove the 1,000 sq m limit for commercial development floorspace.</p> <p>The Second Consultation Paper also establishes that Government is soon to publish a national Brownfield Land Register map, which will automatically record those sites suitable for housing.</p> <p>In Dacorum’s experience there is little evidence that the landowners and developers are greatly interested in PiPs,</p>

	<p>instead preferring to go through the more traditional routes to secure consent for development. Much detail still needs approval even when PiP is in place.</p> <p>Little evidence is offered as to why the criteria of 150 dwellings or 5 hectares has been chosen. The 5 week determination period is to be retained which may be a restrictive timescale for decisions on call in and for community engagement on major developments which could come within PiP.</p>
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#### **4.0 NEXT STEPS**

- 4.1 The final responses on both consultation documents will be the subject of a formal decision by the Portfolio Holder for Planning and Infrastructure. The Committee's views on the draft responses contained in the appendices are therefore sought to help inform the content of what is finally returned to Government in accordance with the deadlines set.

## **Appendix 1: Draft Dacorum Borough Council Covering Letter**

Date  
Your Ref  
Our Ref  
Contact  
Email  
Direct Line

**BY EMAIL to:**

Dear Secretary of State,

### **Planning for the Future – White Paper August 2020 and Changes to the current planning system - August 2020**

We welcome the opportunity to share our perspective on the proposed reforms set out in the White Paper and the consultation on changes to the current planning system. Contained within this letter are several general points with our detailed responses to each of the papers attached.

We understand that the principal aim of the proposed changes is to deliver more homes but we question whether a complete overhaul of the planning system, at this time, is the correct policy solution. First, the planning system does not exist entirely to deliver housing. The system is there to deliver ‘sustainable development’ – social, environmental and economic. There is little appreciation of this wider role in the reforms.

In many cases, Government has identified many of the symptoms of the problem but we are concerned that Government is misdirecting itself on what is needed to respond to these challenges. Whilst the functioning of the planning system is an important part of the solution - and we welcome the recognition in the White Paper of the importance of planning to deliver wider policy objectives – the planning system operates in a complex ecosystem that works to deliver new homes. What is ignored throughout the consultation are the dislocations, inefficiencies and failures in other parts of the development system that need to be remedied if the stated objective of Government is to be delivered. These include the operation of the land market, the efficiency and productivity of the construction sector and skills and labour force limitations across the sector.

To illustrate these points:

- In the last decade local planning authorities granted consents for 2.5M homes yet only 1.5M have been built.

- In 2019 (a record year) local planning authorities granted consent for 371K homes, yet developers still only delivered 241K homes.
- Local planning authorities grant around 90% of all planning applications. **In Dacorum over the last five years we have granted 94% of all planning applications received, many of these for new homes or extensions to existing homes.** Much of the time spent on applications is spent negotiating away problems so that consent may be granted as required by the NPPF.

On the consultation, it is clear that the White Paper is not a fully formed document with key details missing to illustrate what a 'post reform' system will look like and the consultation on changes to the planning system is light on detail in some key areas; this limits our ability to comment on whether it will deliver the stated aims of Government.

Having said this, we welcome the principle behind a number of the reforms outlined. We welcome the retention of the Local Plan as a central part of development planning for areas and that these will become shorter, simpler documents containing a series of tighter rules rather than a series of policies. This will provide a clear, unambiguous set of requirements and remove the ability of some actors to systemically undermine an adopted Local Plan and thereby eroding confidence in the Plan Led system.

We also welcome anything that simplifies the preparation of Local Plans. The plan making process has become very complex, time consuming and costly and this is a direct result of continued tinkering with the system over the last decade. In our view the uncertainty has no doubt slowed Plan Making.

We support the proposals to expand Plans to incorporate Design Codes and welcome the strengthened role local communities will have in this process.

We support the proposals to modernise the process through greater digitisation and to incorporate standardisation of areas of the planning system which are duplicated across the Country, particularly certain development management policies which add little at the local level.

However, the reforms do raise several concerns for Dacorum.

1. A number of proposals will curtail local democracy and will be a retrograde step for localism, including the exclusion of local elected members from decision making. The proposals to front end engagement with the community onto plan making (coupled with permission in principle once adopted) means that communities only getting a say on development in their area every 5 – 7 years, in line with Plan making. Not only does this apply to the determination of planning applications, the setting of housing numbers and setting out the levy for future infrastructure. The Prime Minister's analogy of the planning system being a crumbling house that needs tearing down is noted. To extend this further it is crucial to the credibility of the system that the house that is rebuilt is greener, more affordable and with the necessary infrastructure identified and funded. Also, its design and location needs to be informed by local people as they will see it every day, it could well be their children that buy it and it is them who know if the land was once a landfill or is prone to flooding - information that it is unlikely to be available to unaccountable officials in Whitehall.

2. The White Paper does not provide enough detail on the proposed new regime for infrastructure delivery. This is a top priority for our residents. To ensure the system has the trust of local people a clear, understandable and robust regime for securing new infrastructure must be provided. There simply is not enough information contained for this authority to be confident the abolition of s.106 and CIL will deliver the desired objectives. The former is also used to secure a range of other legal requirements (including affordable housing, local labour requirements, long term stewardship arrangements etc) and there would need to be a legal framework to secure these.
3. We also have reservations arising out from the abolition of s106 allied to the requirement for First Homes as being the first 25% of affordable homes to be provided. This is an owner occupied element which does not meet the housing needs of those on very low incomes. It would likely result in a greatly diminished supply of genuinely affordable rented accommodation and will exacerbate an already crisis level shortage of affordable homes. The housing requirements of those most in need are primarily social rent and affordable rent homes under the Local Housing Allowance limit. Such homes should be prioritised over the aspirations of first time buyers which may then be addressed if resources allow.
4. We have reservations about whether a 30 month Plan making window is feasible particularly given that Design Codes for all growth areas will need to be in place prior to adoption; these will have their own processes, including community engagement. In addition, given that Local Plans will provide outline planning consent this will significantly increase the amount of information that is needed at the Plan Making stage.
5. Delivering the reforms will be a significant challenge for already depleted local authority budgets. We welcome the suggestion of a comprehensive skills and resource strategy to support the implementation of the White Paper as we feel it is not possible to deliver the wide ranging reforms within local authority budgets.

The attempt to simplify, standardise and digitise the system are welcome in principle but we are concerned that by pursuing these aspirations the result will be to 'smooth' out a system that needs to respond to local circumstances. We foresee a system of 'winners and losers' within communities across the Country at the stroke of a Whitehall pen, particularly in relation to developer contributions and affordable housing delivery.

The uncertainty caused by the proposed reforms is likely to lead many local authorities to reconsider their own timetables for preparing their current Local Plans. We advise that Government quickly announce a comprehensive set of transitional arrangements that avoid many authorities holding off Plan Making.

We trust you find the responses helpful and if you require further information please contact us. We would hope that there will be further discussions and engagement with local authorities before any changes are finally determined and implemented. Dacorum is keen to

work with Government to shape the reforms to ensure that there is a smooth transition to the new system. We are willing to work with your officials on these as required.



## **Appendix 2: Draft Response to the White Paper (Planning for the Future)**

### **Pillar One – Planning for development**

**Proposal 1: The role of land use plans should be simplified. We propose that Local Plans should identify three types of land – Growth areas..., Renewal areas..., and areas that are Protected.**

We agree with measures that simplify the plan making process and increase community involvement. However, generally adopted Local Plans are clear on where development is allowed and what form this takes. Under the current system many of the detailed issues (design and layout) are left to a later stage for a number of reasons. First, to address all of these issues upfront would inevitably slow down the Plan Making process. Second, some sites are later sold to other developers who may decide to deliver a different product and the flexibility of the current system allows this.

The proposed categories (Growth Areas, Renewal Areas and Protected Areas) also raise questions. These definitions are too broad and the simplicity ignores the reality.

First, Growth Areas would be acceptable for ‘substantial development’ but fails to define this centrally important concept. This would appear to be a rebranding of what is known as an ‘allocation’ under the current system. If, as it suggested, outline permission is to be granted on adoption, it is not clear how local authorities would manage this growth without significant resources. Obtaining outline approval on adoption will slow the plan making process down as local planning authorities would need to include more detail in their Local Plans, particularly around infrastructure delivery, design requirements and ensuring that the necessary legal agreements are in place. Where a ‘Growth Area’ constitutes multiple landownerships how are these interests reconciled? How would local authorities coordinate the delivery of infrastructure to ensure that development on a given part of these areas can come forward at any time? How and when would viability issues be dealt with? Under the proposals all would all have to be agreed at the plan making stage and will slow down the process. Given the complexity involved it could either significantly slow down the pace of development or, the complexity proves so much that local authorities are unable to secure quality development and the pressure to build increases and the landowner is able to do whatever they wish.

Second, Renewal Areas are areas where ‘smaller scale development is appropriate. This could include gentle densification and infill’. Our interpretation is that this designation would apply to the built up areas of settlements that do not fall within Growth Areas. What is meant by ‘gentle densification’? Would this be an arbitrary cap imposed on places? This would appear to be a retrograde step compared to the current system where locally judged discretion allows for a range of developments to come forward, some of which may be of higher density than what the cap would define. Local authorities would need to define multiple areas and stipulate rules for each location, which would be a significant undertaking.

Third, it is not clear whether in Protected Areas no new development would be allowed. Under the current system it is possible to secure some development in some of the designations listed below, even in the Green Belt.

We therefore have some major reservations about the unintended consequences of attempting to simplify the planning process as proposed.

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

We agree that Local Plan policy should avoid duplicating policy set at the national level. Indeed, this is already the case under the current system. We do support further steps to set out a series of agreed development management policies at the national level but believe that very few will be solely national and require no local interpretation.

We would also support steps to create requirements within Local Plans that are clear and binding to avoid systemic undermining of Local Plans from actors seeking to promote poor quality development.

We support a greater role of Design Codes to be prepared alongside the Local Plan and support the proposals that these will not have weight unless informed by the community. However, preparing multiple design codes alongside the Local Plan is a significant shift in role for local authorities and will require substantial resources to deliver. A further complication is that a design code will need detailed information on the site constraints (both above and below ground). It is likely that much more technical information will be required to prepare Design Codes and the question remains over who will pay for these.

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

We support the approach to simplify the examination tests provided this would demonstrably speed up and de-risk the Plan making. However, we disagree that defining ‘sustainable development’ will be a simple task and foresee considerable debate on this point throughout the Plan Making process.

We are cautious about the suggestion to abolish Sustainability Appraisals. These perform a useful function in assessing the policies and proposals of the Plan and cover both social and economic objectives. Indeed, if the proposals are to rationalise the tests of soundness, replacing it with a sustainability test, then arguably the role for Sustainability Appraisal will increase.

We support the removal of the Duty to Cooperate test as believe this has failed to deliver what it set out to do. Plan making has become increasingly complex as a direct result of bi-lateral and non-binding discussions to accommodate unmet needs from elsewhere.

We support the retention of infrastructure planning as a central component of the Local Plan process and consider it vital that Plans should be tested against their ability to deliver infrastructure. Any dilution of this requirement will undermine confidence in the system.

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

We broadly support the suggestion that the standard methodology should take into account local constraints. Housing figures should be capped in those areas with genuine constraints, including Areas of Outstanding Natural Beauty (AONBs) and Special Areas of Conservation (SAC), which is an internationally protected site. What is not clear from the consultation is what these constraints will be and how they will be weighted in setting the final housing figure for an area.

We understand why Government is seeking to impose binding housing targets on local authorities but Dacorum Borough Council is concerned that this is a retrograde step for localism and local democratic autonomy. At the very least there must be a mechanism under which Local Authorities have an opportunity to comment on and seek changes to a draft figure before it is finalised.

No detail is provided on these important aspects. As proposed it represents a centralisation of a key part of the planning process and risks undermining local democracy and confidence in the Plan making process.

Clarification is required on the reference to meeting development needs for a minimum of 10 years as the NPPF refers to a minimum of 15 years. Many local authorities are preparing Plans with a time horizon of a minimum of 15 years. If 10 years were to become the norm then many local authorities, particularly those preparing Plans currently would need reconsider major changes to housing numbers and sites.

We support the abolition of the need to demonstrate a five year supply of land as this continually undermines the Plan making process forcing local authorities to approve substandard development or incur the time, cost and uncertainty of a planning appeal.

#### **A STREAMLINED DEVELOPMENT MANAGEMENT PROCESS WITH AUTOMATIC PLANNING PERMISSION FOR SCHEMES IN LINE WITH PLANS**

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

In our view, this is not such a great change from the current system in practice. However, it needs to be recognised that outline planning permission still deals with a number of important issues such as affordable housing provision and infrastructure. Under the proposals those matters will need to be agreed upfront at the plan making stage and could therefore be more time consuming.

The true issue sought to be addressed here is that of speed of process that can be resolved under the present process by proper resourcing.

We have real concerns over the proposal at the possible loss of democracy and community involvement in the planning process which runs contrary to some of the main tenets in the proposals. Once areas are zoned as Growth, Renewal or Protection it will be assumed that the land designated has permission in principle and any further controls would be extremely limited. This means local communities only getting a say on development in their areas once every 5 – 7 years.

The current system affords two opportunities for accountability and oversight; one at the creation of a Local Plan and again at the planning consent stage. The proposals if implemented would limit democratic involvement to the plan making stage only. In our experience many residents are more likely to become involved at the decision making stage and there is a likelihood that residents would feel aggrieved if they were to find that they had no say in a development proposal at (what is now) the planning application stage.

We do not agree that development in Protected areas should fall back to current permitted development rights. The present array of permitted development rights is wide ranging and there are proposals to further extend this further. It is essential that development is reviewed with local engagement in these sensitive areas in order to afford them appropriate and effective protection.

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

We welcome the proposal to make greater use of digital technology but that must be properly resourced, not only for the creators of digital media / communications but also for users and audiences if genuine benefits are to be realised.

Increasing the use of digital engagement is likely to deliver financial benefits from reductions in publishing and postal costs. We estimate that in the last 6 months we have sent in the region of 13,000 letters this year for planning cases alone.

Against that saving would be the need to establish how future systems are to be integrated with existing systems and / or the cost of transfer to wholly new systems.

The cost and time savings of new systems should not be overstated. Depending on the level of standardisation of submission of planning applications there may be an element of automation in the planning application validation process it is unlikely very little automation would be achieved without major changes to existing systems and at this time we are sceptical of any resource gains being achieved at the validation stage. That position could change if there is a national and centrally funded ambition to introduce a single system for the submission of planning applications.

The systems that are required and necessary to do this would have to be readily available in good time, and affordable to Councils to make this a success. The risks of the absence of such systems is high and likely to lead to serious local administration problems.

Data entry will increase and accuracy will be important. Training programmes will need to be created, including the use of any new software and changes to requirements of planning applications being submitted.

Consideration will also need to be given as to cost and platform used for the introduction of geospatial capability and the possible complexities of adding further complexity to the interface with other systems.

Whilst we have a number of reservations and would need to see much more detail than is currently provided to fully comment, we consider that overall the desire to digitalise information in the planning system is achievable and could provide benefits for speedier

delivery and greater transparency in the planning process, provided it is properly resourced and funded.

The proposal to rebate the planning application fee where applicants are successful at appeal requires much more thought than is given in the White Paper. Some applications for planning consent are retrospective and in such cases the applicant / appellant may be incentivised to appeal as they would not lose out by taking the proposal through the appeal process. This may have the unintended consequence of affecting enforcement appeals which attract a planning application fee and which are then successful. The Local Planning Authority will have invested much time and resource in defending appeals and the risk refunding an appeal fee in the event of a successful appeal may discourage local planning authorities from taking enforcement action.

The proposal suggests that the possibility of rebate of the application fee would “promote proper consideration of applications by planning committees.” Committees are bound by numerous rules, regulations and case law to ensure that they give “proper consideration”. In addition the proposal appears to ignore the further practical point that the greater sanction is often that of costs rather than fees associated with appeals. It is a factor for both applicants and local planning authorities in taking a measured approach in their decision making.

No detail is provided as to whether or not planning application fees are to be ring fenced or can be pooled and used for other services.

Appropriate measures to speed up the appeals process would be welcomed. The White Paper does not contain detail as to how this would be achieved and we would be pleased to be involved in further discussions on this point. At this stage, we would comment that the appeals process needs to be reviewed for the enforcement process as well as the consent process.

The current enforcement appeal process system is susceptible to those who may be subject to enforcement action being able to use the current appeal process to delay enforcement action. This is a serious and current hindrance to the timely resolution of breaches of planning control.

The appeals process for enforcement is currently much slower than it is in respect of planning consent appeals. Often by their very subject nature, enforcement appeals are more urgent as unauthorised development is already likely to either exist or be in use. Speeding up the enforcement appeals process would be beneficial to key stakeholders in the process such as appellants, the local planning authority and the local community.

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

We support this proposal and local authorities should be fully involved in the development of a new template. As with the planning application process, effective systems need to be widely available and at reasonable cost to Councils.

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

We broadly agree with the opening paragraph to this proposal although we have concerns about allowance within the proposed timescales for preparation of design codes and if the time proposed truly allows for greater community involvement within the proposed 30 month time period and at the two stages suggested. An important element of communities having trust and confidence in local plans is the local endorsement of their contents and this element appears curtailed by what is proposed.

No details is provided on possible sanctions where the new proposed timetable is not met and local authorities should be fully engaged in the development of any sanctions and remedial measures.

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

We agree with the proposal. Simplification of the process for Neighbourhood Plans would be welcomed by local communities but not if it is made at the cost of local democracy and community involvement.

Any changes to the process will need to ensure that Neighbourhood Plans remain complementary to the Local Plan process and the aim of overall simplification of the planning process.

**Proposal 10: A stronger emphasis on build out through planning.**

We agree with the proposal. There is scope to improve delivery by use of improved building methods including greater use of Modern Methods of Construction. These should be encouraged and incentivised as well as looking beyond pure market forces providing the public sector with resources and powers to acquire and build good quality affordable homes.

## **Pillar Two – Planning for beautiful and sustainable places**

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

We agree that it is important for the planning system to set clear expectations for the form of development which is to be accepted in different locations. We support proposals that would raise standards of design across the board and endorse the proposal that local guides should be produced where possible.

We support the strengthening of design codes and welcome the proposals that these would only be given weight if they can demonstrate that inputs from the local community. We see

the increased role of design codes as an opportunity to build confidence and trust in the system and providing communities with a real say in what development looks like in their area.

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

With reference to the appointment of a “chief officer for design and place-making” there is little detail on how this would be resourced, although we welcome the reference to bringing forward proposals for improving the resourcing of planning departments. Local authorities should be fully engaged on establishing resource requirements and how those resources are to be funded and delivered.

CABE and many other design bodies have produced large volumes of good design guidance and any addition to these should significantly add to their work and not simply repeat it. If it is to be useful then it should comment upon major design proposals, be prepared to give support and have urban designers appear at appeals and enquiries to support local planning authorities where schemes are refused on grounds of poor design (in similar manner as Historic England for example). Consideration should also be given to any new body giving support to Universities to further raise the standard of future development designers.

Whilst a chief officer for design and placemaking could assist in raising standards we consider that more key to success would be the training and reskilling of decision making officers.

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

Dacorum is unable to express a view on this proposal without understanding the exact further role Homes England will have and how this will impact on planning in Dacorum. However, in principle we believe that Homes England’s land disposal strategy should place much greater weight on considerations other than land value. In particular, design quality, the willingness of the developer to trial emerging technologies and innovative approaches to design, construction, layout and delivering quality of place should be strongly weighted to allow testing. Finally, the delivery of local authority objectives should also be weighted more when determining land disposal in a given area.

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

Regarding the first point, re swift approval, this is already a feature of the current system and we do not see what this proposal is seeking to do differently.

Regarding the second point, again in many cases this already takes place in practice but we support the strengthening of this through legislation. In practice this would significantly increase the scope of the Local Plan and downgrade the development management process.

There is a risk that this could delay Plan Making as it could not progress to examination until Design Codes were at an advanced stage. This shift in approach would need resourcing accordingly.

Third, we understand the rationale behind creating an accepted standard of housing design so that it is replicable. It is also unclear what is meant by (and who decides) what constitutes “popular and replicable” design and how “gentle densification” is defined. We agree that this has potential to enable greater uptake of MMC but more detail is required to enable us to provide further comment.

Increasing supply in other industries is helped by standardising products. However, this approach risks supporting ‘anywhere’ development and ignoring the varied character of our towns and villages. A ‘standard’ approach would potentially damage local character. It would be much more appropriate to leave this to local authorities, and their communities, to develop locally led design guides and codes as suggested elsewhere in the consultation.

The text suggests a pattern book approach which raises practical issues of how design quality is to be controlled. For example variation of heights, style and detail that reflect the local topography and geology make significant contributions towards a pleasant and interesting visual environment and it is unlikely that the suggested pattern design codes would not achieve this.

It is our view that these proposals will give rise to further ‘cookie cutter’ or ‘bottom drawer’ developments that are widely resisted by local communities as they fail to respond to local character and context.

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

We welcome the principle of this but await further details on what this means. It should not be the case that the Country’s climate change targets are met by converting one LPA into a renewable energy production area whilst lower standard developments are allowed elsewhere. LPAs should have the ability to go above and beyond if the national requirements are not ambitious enough and/or does not reflect local climate change emergency resolutions.

Protection of places of environmental and cultural value of great importance to this Council and we welcome measures that protect and enhance the environment. This Council declared a Climate Emergency in 2019 and is very mindful of environmental concerns and long term sustainability.

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

We support the principle of speeding up decision making and the need to avoid duplication but the reforms cannot be allowed the dilution of environmental standards. We also support the better use of open source data to deliver this but much of the data is expensive to collect,



time limited and held by developers. If the proposals were to require local authorities to undertake these reviews (particularly at the site level) a substantial increases in resources would be needed.

Simplification and greater speed should not be obtained at the expense of the environment. The planning system is not entirely a housing delivery system and needs to balance environmental objectives as much as others. We note that a more detailed consultation on these matters will follow later this year.

#### **Proposal 17: Conserving and enhancing our historic buildings and areas in the 21<sup>st</sup> Century.**

We note the reference on page 59 to review and update the planning framework for listed buildings and conservation areas. Detail is light and we would wish to explore whether “new and better” ways of securing consent for routine works provide sought for protections and enhancements.

In respect of the second paragraph generally on page 59 the government previously explored this option in 2012 in the DCMS document “Consultation on Improving Listed Building Consent”. The response in October 2012. The response to that paper noted that the government was not going to follow that approach as:

*“2.4.2 Consultation responses were overwhelmingly against this option (74 supported, as against 266 who opposed it) and raised a number of concerns relating to the likely objectivity of accredited agents, particularly as LBC decisions are often a matter of judgement rather than technical assessment, and LPA conservation officers should be seen to be neutral. They also expressed fears over the possible impacts of this approach on local authority conservation provision.”*

No evidence is provided within the White Paper as to any change of circumstances since then and we would suggest that the current system, particularly with regards to approved agents, remain unchanged.

Further we are concerned that such an approach would be overly bureaucratic as agents would need to deposit approved plans with the local planning authority, otherwise successive property owners, possibly many years later, may be required to undo previous works of which there was no evidence of previously being granted consent. Again, this could also have implications for enforcement action and upon which we comment elsewhere in this response.

Issues of climate change are complex as each building requires consideration rather than a standard approach. We would refer you to the Sustainable Traditional Building Alliance retrofit toolkit; GAP analysis update undertaken with Historic England and Historic Environment Scotland amongst others to review the issues.

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

Generally we support these measures but we feel that local authorities should still have the ability to go further with their local policies if they have the evidence (principally on viability) to support that.

### **Pillar 3 – Planning for infrastructure and connected places**

Dacorum Borough Council would advise Government to tread carefully when seeking to unravel and rebuild a fundamental pillar supporting the planning system. S.106 agreements not only secure the delivery of numerous development obligations but it also provides a contractual arrangements for other aspects of development, without which development could not be approved. These are not superfluous arrangements stymying development, they are necessary, in law, to make development acceptable and critically to facilitate it whereas it might not otherwise proceed.

The issue in the system is that developers, land owners and their agents are not alive enough of these costs during the land acquisition process and therefore not enough allowance has been made when agreeing land value. The development sector needs to be more adept at understanding the legal system in which it seeks to operate.

Yes, we agree that the negotiation of these is time consuming but this is a factor of the chronic lack of resources in the system particularly at the County Council level. We also agree that if more information were to be available upfront, then this would avoid delay.

We would support a move towards standardising the content of agreements (articles of agreement) and support much greater transparency in the likely costs. One solution is a legal requirement for Borough and County Councils to have these published on their website, with the completion of which being a validation requirement.

We strongly support the proposal to capture a greater proportion of the land value that occurs when permission is granted. Communities need to see the direct benefit of accepting growth in their areas through greater investment in infrastructure provision locally.

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

There is simply insufficient information for us to comment meaningfully on such a fundamental change to the system. The aspirations are laudable but we need more detail on what the scheme may look like and how it will operate and what transitional arrangements will be in place.

A report in 2016 by the CIL Review Team<sup>2</sup> supported extensive reform of the CIL regime. The conclusion reached was that CIL as currently configured is not fulfilling the original intention and providing a faster, fairer, simpler, more certain and more transparent way of ensuring

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<sup>2</sup> A new approach to developer contributions – October 2016

that all development contribute something towards cumulative infrastructure. Whilst the White Paper suggests that a number of those concerns might be addressed they risk being lost under multiple layers of complexity. Accordingly it is not readily apparent how the proposals would address or improve upon the existing position.

We would support greater standardisation in the preparation of s.106 but feel abolishing it would overlook the important role these play in securing a wide range of other agreements need to allow planning permission to be granted.

The consultation talks about the system needing to be more responsive to local circumstances and yet it seeks to create a nationally set Infrastructure Levy. How is this responsive to local circumstances? A flat rate exposes several dangers about the rate not being responsive to local circumstances. Sales values and build costs will vary widely across the country, and even within local authority areas. The extent of variation would lead to infrastructure 'winners and losers'. Furthermore, the infrastructure requirements will vary in different places (depending on the growth and local circumstances) and a national rate may create even greater funding gaps and viability barrier in some of these areas and potentially surpluses in other areas. What happens in these situations?

No detail is provided as to how the Levy will address the link between new development and measures necessary to mitigate its impacts, including adequate funding and timing of delivery of infrastructure when it is needed.

The timing of payment is also of great concern to us. In most cases the proportion of costs linked to s.106 or CIL payments is dwarfed by the land purchase costs and construction costs.

Allowing deferred payments on CIL/s.106 (in many cases) will undermine confidence in the system for larger development sites. Repeatedly, our residents raise strong concerns with us over the timely delivery of infrastructure, for which in many areas there is a current deficit in provision.

We can see an argument for builders at the much smaller end of the spectrum (and could support this) but to allow volume builders on large sites to defer their infrastructure obligations until the point of occupation fails to meet the needs of local communities. To instil confidence in the system infrastructure is needed earlier in the development process, not later on.

The suggestion to allow local authorities to borrow against future income is a positive step but this places significant financial risks on local authorities during a down turn when development is not being occupied. Local authorities could be saddled with substantial financial obligations in the event of the market collapsing.

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

We support proposals to expand CIL to capture permitted development. The current loopholes are being exploited by the sector and has significantly eroded public confidence in the system. This Borough has seen very significant loss of employment floorspace to residential conversion through the new permitted development rights, which creates new or increased infrastructure demands which cannot be funded by CIL or planning obligations. This would help address these shortfalls.

There is no detail provided to give an indication as to how the proposal would work in practice. How would it work, who would enforce it and how? If changes of use are carried out without certificates then it is likely such liabilities would go un-reported and un-noticed.

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

We do not understand what this proposal is seeking to achieve. If Government is seeking to abolish s.106 then yes there needs to be a replacement regime in place. However, the test is whether more or less affordable housing and the correct type of affordable housing will be delivered as a result of the changes. We are concerned by attempts to merge two regimes when there is a clear danger that the amount of funding in the merged regimes could be less. This is particularly the case if the levy will set the figure at a national or sub-area basis meaning it could give rise to 'winners and losers' across areas.

We are concerned that in striving for simplicity the new system gives rise to exploitation where values and build costs in a given area are conducive to higher profits. There must be a mechanism to capture an excess value created.

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

As mentioned above, giving local authorities greater flexibility as to the purposes to which they may allocate revenues from the Levy is welcomed in principle but more detail is required. It is important that income gets spent on what is needed to make development work and sufficient controls are needed to ensure the money raised is reinvested to support growth and not used to offset funding reductions elsewhere.

**Proposal 23: As we develop our final proposals for this new planning system, we will develop a comprehensive resources and skills strategy for the planning sector to support the implementation of our reforms. In doing so, we propose this strategy will be developed including the following key elements.**

The White Paper correctly identifies that if the reforms are implemented then considerable adjustments will be required with financial and human resource implications to successfully implement those changes. The real issue remains one of ensuring that there is sufficient capacity, expertise and funding to deliver a world class planning system that meets the needs and aspirations of the communities that it serves. The White Paper remains light on detail as to how that capacity and funding will be delivered.

We welcome the recognition that more investment is needed into the planning system after a sustained period of underfunding. This may attract many planning and development professionals back into local government, but the pathway and resources for this needs to be clear and put in place as soon as possible. We support the performance framework for local authorities but it is vital that local government is seen as an attract place for planners, architects and other development professionals to work. Local government needs to be seen as the place to be for people seeking to get on in their careers. That requires much greater training and development opportunities, improved terms and conditions and remuneration. Without these any reforms will fail.

Given the expanding role of Plan Making more funding will be required. We feel that the cost of applying for planning permission should be increased to help fund these activities. However, the activities of the planning authority and the impartiality of the system and local planning authority staff should not be put at risk under a new funding system, which would see developers providing a greater source of funding. We are concerned about the potential for some developers to seek to exploit this.

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

Whilst the principle is welcomed, more detail is required to enable comment to be provided. Again, the provision of adequate capacity and funding will be a key element.

In our view planning enforcement does not require more or new “tools”, there are plenty available to local planning authorities within the current system. The main barriers to “robust enforcement action” are appeal timeframes, a lack of consistency across local planning authorities in terms of enforcement priorities and approach and, especially, that of available resources.

A review of fines is of questionable benefit. Fines in respect of most breaches of enforcement notices were recently increased to “unlimited” a few years ago and has had seemingly little impact in terms of fines actually imposed where breaches have been successfully prosecuted.

The Proceeds of Crimes Act 2002 (POCA) has had a much greater impact in some cases in serving as a deterrent, however, its use depends upon local planning authorities having the skills, resources and capacity to pursue such action which often is not the case.

It is not clear what is proposed to “ensure temporary stop notices are more effective.” In our view temporary stop notices are an already effective means of enforcement where used properly and where resources are available to prosecute in a timely and effective manner. Consideration could usefully be given to extending the current 28 day period for which temporary stop notices can have effect.

## Appendix 3: Draft Response on changes to the current planning system

### The Standard Method for assessing housing numbers in strategic plans

In just over a decade we have gone from “Communities will no longer have to endure the previous government’s failed Soviet-style top-down planning targets” (Eric Pickles July 2010) to the Standard Methodology which will set top-down planning targets for housing numbers but with no sign of a strategy or vision to determine how.

**Q1. Do you agree that planned practice guidance should be amended to specify that the appropriate baseline for the standard method is whichever is the higher of the level of 0.5% of housing stock in each local authority area OR the latest household projections averaged over a 10 year period?**

We feel that the reliance on a single source of information to set the baseline is too simplistic and suggested a blended approach which incorporates both is used. The reason for this is that housing need could be skewed towards areas that already have large urban areas. Whilst of itself not an issue it is not an effective measure of housing need. Also, in those areas that experience high levels of windfall development, the future housing need will be skewed as a result.

Developing and setting housing and development targets needs to factor in national and local strategies for areas, including the local vision for how these places should grow and develop, not based on arbitrary forecasts of population or by the number of existing houses in an area.

**Q2. In the stock element of the baseline, do you agree that 0.5% of existing stock for the standard method is appropriate? If not explain why.**

Our comments to question 1 apply.

**Q3. Do you agree that using the workplace-based median house price to median earnings ratio from the most recent year for which data is available to adjust the standard method’s baseline is appropriate? If not, please explain why.**

Yes. It is important the calculation includes the latest data sets wherever possible. However, the consultation appears to have ruled out the merits of using house price to residence-based earnings ratio without any evidenced justification.

**Q4. Do you agree that incorporating an adjustment for the change of affordability over 10 years is a positive way to look at whether affordability has improved? If not, please explain why.**

Yes. This a reasonable length of time to assess long-term changes in affordability, and avoids any potential short-term extremes.

**Q5. Do you agree that affordability is given an appropriate weighting within the standard**

method? If not, please explain why.

No. This authority is concerned that affordability is being used as a “blunt tool” for assessing demand. There are many local factors ultimately affecting demand/house prices e.g. attractiveness /desirability of a location, transport connections (particularly for commuting), access to employment, quality of schooling, etc.

**Do you agree that authorities should be planning having regard to their revised standard method need figure, from the publication date of the revised guidance, with the exception of:**

**Q6. Authorities which are already at the second stage of the strategic plan consultation process (Regulation 19), which should be given 6 months to submit their plan to the Planning Inspectorate for examination?**

Local Authorities should have the discretion to decide whether to retain the number or take on board the revised figure.

**Q7. Authorities close to publishing their second stage consultation (Regulation 19), which should be given 3 months from the publication date of the revised guidance to publish their Regulation 19 plan, and a further 6 months to submit their plan to the Planning Inspectorate?**

This is not enough time and ignores the significant knock on effects the housing numbers have to the Plan and the supporting evidence. Also, the extent of the change in the figure will dictate how long it will take to revise plans. At least 6 months would be needed for a local authority to amend its plan following a change to its housing figure. It should also be pointed out that once a plan is published under Reg 19 it should be a Plan which the local authority considers acceptable to submit for examination. LPAs are not allowed to make significant changes to the Plan at this point and further reinforces the need for more time before publishing Reg 19.

**If not, please explain why. Are there particular circumstances which need to be catered for?**

**Delivering First Homes**

**Q8. The Government is proposing policy compliant planning applications will deliver a minimum of 25% of onsite affordable housing as First Homes, and a minimum of 25% of offsite contributions towards First Homes where appropriate. Which do you think is the most appropriate option for the remaining 75% of affordable housing secured through developer contributions? Please provide reasons and / or evidence for your views (if possible):**

**i) Prioritising the replacement of affordable home ownership tenures, and delivering rental tenures in the ratio set out in the local plan policy**

No.

**ii) Negotiation between a local authority and developer**

No.

**iii) Other (please specify)**

Yes. The local plan should be the default starting point for assessing affordable housing ratios rather than having to negotiate this on a case-by-case basis. We welcome the broad principle of this type of scheme in bridging the gap between affordable rent and homeownership. However, by imposing a national 25% figure for First Homes, this will take away choice over what is considered as a local priority. In many cases this represents a significant leap in the levels of homeownership an authority has to plan for.

In Dacorum, with very high house prices, the need for high levels of housing at social rent is acute. Whereas we support the Government's aims for higher levels of home ownership, the proposed and significant emphasis on First Homes as a housing product will divert significant levels of developer-funded subsidy away from genuine social housing and therefore significantly affect our ability to deliver a range of housing products that reflect local need.

The switch away from s106 allied to the proposed national requirement for First Homes as being the first 25% of affordable homes to be provided does not in our view address the true housing need. This is an owner occupied element which does not meet the housing needs of those on very low incomes. It would likely result in a greatly diminished supply of genuinely affordable rented accommodation and will exacerbate an already crisis level shortage of affordable homes. The housing requirements of those most in need are primarily social rent and affordable rent homes under the Local Housing Allowance limit. Such homes should be prioritised over the aspirations of first time buyers which may then be addressed if resources allow.

**With regards to current exemptions from delivery of affordable home ownership products:**

**Q9. Should the existing exemptions from the requirement for affordable home ownership products (e.g. for build to rent) also apply to apply to this First Homes requirement?**

No comment.

**Q.10: Are any existing exemptions not required? If not, please set out which exemptions and why.**

No comment.

**Q.11: Are any other exemptions needed? If so, please provide reasons and / or evidence for your views.**

No comment.



**Q.12: Do you agree with the proposed approach to transitional arrangements set out above?**

Yes.

**Q13: Do you agree with the proposed approach to different levels of discount?**

No. Even a 30% discount may not be sufficient to make the product affordable in areas of high house prices. However, seeking further discounts may have implications for viability and may undermine the delivery of much needed affordable rented housing.

**Q14: Do you agree with the approach of allowing a small proportion of market housing on First Homes exception sites, in order to ensure site viability?**

Yes. This authority sees no reason why a small proportion of housing could not be First Homes. However, this should be a very low proportion to ensure the rest of the site is set aside to meet identified need. There is also a danger of slow creep in that First Homes alongside market housing could end up squeezing out rented homes.

**Q15: Do you agree with the removal of the site size threshold set out in the National Planning Policy Framework?**

No. The NPPF should continue to provide clear advice over appropriate scale of schemes to avoid arguments with developers and having to determine this on a case-by-case basis.

**Q16: Do you agree that the First Homes exception sites policy should not apply in designated rural areas?**

Yes. We wish to avoid the danger of the potential for too many schemes coming forward in the Chilterns Area of Outstanding Natural Beauty.

### **Supporting small and medium-sized developers**

**Q17: Do you agree with the proposed approach to raise the small sites threshold for a time limited period?**

No. SME should continue to play their role in supporting mixed and inclusive communities through the provision of affordable homes. The proposed thresholds are far too generous to achieve the stated aims, irrational and not properly evidenced. Government should be maximising opportunities to increase the contribution of affordable homes from such development rather than undermining it. In many instances in our smaller town and larger villages the vast majority of schemes in our administrative area are of below 50 homes. Therefore, the proposal will only serve to curtail future contributions of much needed affordable homes in these locations.

**Q18: What is the appropriate level of small sites threshold?**

i) Up to 40 homes? No.

ii) Up to 50 homes? No.

iii) Other (please specify) It should remain at under 10 homes.

**Q19: Do you agree with the proposed approach to the site size threshold?**

No. See response to Q.17.

**Q20: Do you agree with linking the time-limited period to economic recovery and raising the threshold for an initial period of 18 months?**

No. See response to Q.17.

**Q21: Do you agree with the proposed approach to minimising threshold effects?**

No. See response to Q.17

**Q22: Do you agree with the Government's proposed approach to setting thresholds in rural areas?**

Yes.

**Q23: Are there any other ways in which the Government can support SME builders to deliver new homes during the economic recovery period?**

No. SME are not the solution to housing undersupply. Support should be provided across the whole development industry to boost supply rather than a small sector of it.

**Extension of the Permission in Principle consent regime**

**Q24: Do you agree that the new Permission in Principle should remove the restriction on major development?**

**Q25: Should the new Permission in Principle for major development set any limit on the amount of commercial development (providing housing still occupies the majority of floorspace of the overall scheme)? Please provide any comments in support of your views.**

**Q26: Do you agree with our proposal that information requirements for Permission in Principle by application for major development should broadly remain unchanged? If you disagree, what changes would you suggest and why?**

**Q27: Should there be an additional height parameter for Permission in Principle? Please provide comments in support of your views.**

**Q28: Do you agree that publicity arrangements for Permission in Principle by application should be extended for large developments? If so, should local planning authorities be:**

- i) Required to publish a notice in a local newspaper?
- ii) subject to a general requirement to publicise the application or
- iii) both?
- iv) disagree.

If you disagree, please state your reasons.

**Q29: Do you agree with our proposal for a banded fee structure based on a flat fee per hectare, with a maximum fee cap?**

**Q30: What level of flat fee do you consider appropriate and why?**

**Q31: Do you agree that any brownfield site that is granted Permission in Principle through the application process should be included in Part 2 of the Brownfield Land Register? If you disagree, please state why.**

**Q32: What guidance would help support applicants and local planning authorities to make decisions about Permission in Principle? Where possible, please set out any areas of guidance you consider are currently lacking and would assist stakeholders.**

#### **Our response to Qs 24-32:**

We are concerned over the potential erosion of local democracy and local community engagement that may arise from the proposals if implemented.

The 5 week determination and 14 days consultation periods already allow little time for proper consideration as to whether or not an application should be called in and restricts opportunity for local community engagement. This will be exacerbated by extending PiPs to major development. In our view those periods would be too short and would fly against the stated principle in the White Paper "Planning for the future" of communities being reconnected to the planning system and residents more engaged over what happens in their areas.

Existing levels of planning application fees do not fully cover costs to local authorities of managing the planning application process. We would be resistant to any measures that further reduce fees without commensurate benefits accruing to local planning authorities to offset any such reductions.

Little evidence is offered in support of the chosen thresholds for PiP applications or as to what would be likely take up by SME's being the major focus for the proposals.

The proposals suggest that a PiP achieved by means of inclusion of a site in Part 2 of the Brownfield Land Register (BLR) requires the Local Planning Authority to promote sites. This would involve local planning authorities in additional work and also require the prioritising of sites.

We note the inference that BLR's could ultimately feed into the national brownfield map but the detail provided is too light for us to comment further on matters such as impacts on the ability to then grant PiPs.

In respect of Q28 we would comment that in line with the general move towards greater use of digital technology we believe that use of publication in local newspapers should no longer be a requirement.

From local experience we are not convinced that the development industry is especially interested in securing consent through this route. There remains an overwhelming preference to secure consent for development through traditional outline/reserved matters/full permissions. The PiP consent regime only adds to the complexity of the decision-making system without necessarily boosting levels of development, and in particular the supply of new homes.

### **Regulatory Impact Assessment**

**Q33: What costs and benefits do you envisage the proposed scheme would cause? Where you have identified drawbacks, how might these be overcome?**

**Q34: To what extent do you consider landowners and developers likely to use the proposed measure? Please provide evidence where possible.**

**Our response to Qs 33 & 34:** This authority does not wish to comment in detail to these questions. As noted in our response to Q's 24-32 above we are not convinced that the development industry will be especially interested in securing consent through this route and the proposed PiP consent regime may only serve to add additional complexity without discernible benefit in practice.

### **Public Sector Equality Duty**

**Q35: In light of the proposals set out in this consultation, are there any direct or indirect impact 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?**

**If so please specify the proposal and explain the impact. If there is an impact – are there any actions which the department could take to mitigate that impact?**

This authority believes there is insufficient assessment to understand what the implications of these proposals will mean for communities.