

Planning for the Future

Written Submission from the Northern Housing Consortium

About us

The Northern Housing Consortium (NHC) is a membership organisation based in the North of England. We are the 'Voice of Housing in the North' working with both local authorities and housing associations to advance the cause of housing. Our membership covers over 95% of all Northern social housing providers. The NHC brings its members together to share ideas, and to represent their interests and to ensure they are heard at a regional and national government level.

Summary of key messages

The NHC is supportive of an approach to planning that helps to deliver new homes, to simplify and improve the plan making process so that it is quicker and more transparent, and so that local communities have greater control over development in their area.

Some reform of the planning system is necessary and could, indeed, be beneficial, however, in our detailed answers we identify several substantial concerns with the proposals, particularly in the way that the reforms will support Northern planning authorities for their role in levelling up the regions.

- **Role of Planning in Under-Delivery.** The White Paper continues to place an emphasis on the failure of the planning system as the root cause of the under-delivery of housing. This emphasis is not correct. In 2018/19 there were 141,061 housing units with detailed planning approval in the North – more than double the net additional dwellings in the same period.¹ Whilst we agree that the planning system needs to evolve and change, this is not the only factor which has led to under-delivery.
- **Housing Growth.** Northern local authorities are ambitious and want to deliver more and better homes. The current standard method of housing assessment runs contrary to that ambition and suggests that Northern regions need to plan for fewer homes than they have delivered in recent years. The new proposed method brings the number closer to - but still not yet at - delivery in the North. The objective of levelling up in the North may be set back as the new method falls short of the numbers needed to meet our ambitions for economic growth. Across the North, the proposed method results in a figure which is 6,180 dwellings per annum lower than the actual average level of housing delivery over the last three years. Any framework which sets a binding target for local areas should be able to reflect the complexities of different housing markets.
- **Flat-rate levy for infrastructure in lower value areas.** This proposal could lead to significant regional differences between LPAs with higher value / lower affordability and areas in the North with lower land values and significant batches of land below the proposed minimum threshold. Development capture mechanisms are less effective in areas of lower land values, but the White Paper does not identify a solution – suggesting there will be significant market failure and need for Government investment in lower-value areas to correct the imbalance. Higher value areas will generate higher contributions, and even if the rate varies across the country, there is only so much that lower value

¹ MHCLG Live tables on housing supply: net additional dwellings Table 118 2018/19

sites will bear. Higher value / lower affordability areas also currently benefit from geographical targeting funding distribution rules (80:20) and are favoured by Green Book appraisal criteria, unless there is fundamental reform as the NHC and Homes for the North are calling for. The areas that really need investment to level up will have the lowest capacity to generate it. This points to the need for a fundamental rebalancing of investment criteria.

- **Affordable Housing.** The combined proposals, (including those in the separate consultation on changes to the current system), including: raising the threshold above which affordable housing contributions are expected through S106 contributions to 40 or 50 units; 25% of S106 homes would be required to be First Homes; and the new Levy with de minimus thresholds, represents a threat to affordable housing delivery. A value-based minimum threshold below which the Levy is not charged will reduce the contribution of affordable housing supply in the North. It is unclear whether contributions towards affordable housing would be as clearly ring-fenced as they are through S106 and whether affordable housing developments would be liable to contribute to the Levy. Increased grant funding for affordable homes to rent may become more important if supply is to be maintained.
- **Local Planning Capacity, Resources and Skills.** The proposed reforms on the scale proposed will create substantial resource demands, particularly during the transition phases where councils will be dual running the old and new systems. Northern LPAs have lost a disproportionate amount of capacity over last ten years. The average net spend on planning in Northern councils has fallen by 65% since 2010/11, compared to a reduction of 50% in the rest of England.² A commitment to time-limited funding in the spending review ‘in line with the new burdens principle’ is welcomed but we believe that a greater reliance on fee income will mean less income for Northern LPAs and is completely counter to levelling up. We are already in a situation where LPAs in the North West and Yorkshire & Humber spend less than half the amount per resident on planning policy as those in the South East. The paper proposes that applicants, not the taxpayer should fund the new system with a small proportion of the income from the new Infrastructure Levy earmarked to LPAs to cover their overall planning costs. Aligning funding with the Levy could exacerbate regional inequality so that areas with reduced Levy charges and more limited options to cross-subsidise the new planning activities could face a spiral of under-resourcing. The proposals must include a realistic assessment of how much will be needed to make severely under-resourced planning authorities capable of delivering new local plans for a new planning system in 30 months along with all the other burdens introduced.

The NHC submission to the Spending Review called for a package that provides a sustained real-terms increase in local government funding which could enable local government to build back services like strategic housing and planning, reflecting the fact that these services exist to serve all in the community – not just those seeking to promote development. We have also called for a national centre of specialist housing and planning expertise, located in the North, and open to all. We believe this Centre could provide a valuable source of specialist skills which councils can no longer afford to maintain in-house. It is consistent with the former Minister of State for Housing’s suggestion of a ‘planning A-team’ who could support councils with these specialist skills.

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

² NHC (2020) *Time to Level Up: Local Authority Housing and Planning Capacity in the North of England*. Available at: <https://www.northern-consortium.org.uk/influencing/ournorth/local-authority-capacity/>

5. Do you agree that Local Plans should be simplified in line with our proposals? *[Yes / No / Not sure. Please provide supporting statement.]*

No

We support a simpler plan-led system but have concerns that the proposal for all land to be divided into three zones is over-simplistic.

Zoning may have the benefit of upfront clarity but to get to the point of designation will require substantial complex consideration of different land use types. Although simpler, the proposals will introduce a far more rigid approach for local plans to follow and this will not reflect the need to react to changing circumstances. It also raises concerns about council's ability to undertake this categorisation of land: it should be noted that planning policy – which includes the development of local plans – has seen spending reduced by 35% in the North, over twice the reduction compared to the rest of England (15.7%).³

- Designation that will be set for 10 years hence will require foresight and considerable upfront planning into future needs.
- It is not clear how the infrastructure and other public sector service consequences of a development would be determined, and how this would be taken into account in a system where so much is determined in advance.
- Site-by-site specific conditions will still be necessary – and all the more important given the binding nature of Local Plans.
- The assumption is that local and national design codes, and nationally led development management policy will address these detailed issues. For most developers and other stakeholders this will be an irrelevant distinction and it will still be necessary for them to consider all the detail.
- The proposal refers to flood risk, but there is no mention of how zero carbon infrastructure will be treated within the different zonal areas. For example, councils will need to know where sites will be needed for renewable energy clusters now otherwise opportunities will be lost.
- Some mechanism should be retained to sub-divide the zones, for example, exempting areas from permitted development rights that may otherwise fall into a growth zone and consideration of Conservation Areas which sit within areas of growth or renewal.
- A broader definition of 'designated rural areas' must be adopted to protect the existing rural exception site policy from unintended consequences of zoning and from the first homes policy.

Suggestions for change:

- Some degree of granularity and local flexibility is needed to successfully manage development in a zonal approach. LPAs should retain the ability to respond to the need for sub-divisions within zones.
- While there will be the opportunity to ask for exceptions to be made to zoning rules for example, for more intensive development, the full costs of such applications should be covered.
- Grants should be made available for local authorities on track to have an up to date local plan.
- It is not clear that any additional funding will be made available to LPAs for producing the new plans and zoning land and how this could be delivered in the current funding environment. Levelling up will require a particular focus to resourcing planning in areas where it is currently relatively under-resourced, and areas which struggled to attract development. Bringing the average net investment per person in the lowest spending regions (North West, North East and Yorkshire) up to the average of the higher spending regions would cost around £100 million a year.⁴

³ Ibid

⁴ RTPi Resourcing Public Planning 2019

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

6. Do you agree with our proposals for streamlining the development management content of Local Plans, and setting out general development management policies nationally? *[Yes / No / Not sure. Please provide supporting statement.]*

Not sure

There may be benefits of consistent national development management policies and the removal of duplication in Local Plans wherever possible. However, these will need to be comprehensive to ensure that local conditions can be adequately addressed.

Although local plans are often too complicated, planning reform should not mean less local input and local data.

At this stage no further detail is available on what is proposed. Local policies on housing, employment, biodiversity, landscape, flooding, and transport etc. are proposed to be much reduced in local plans. The National Planning Policy Framework (NPPF) then becomes the primary source of policies but without the revised NPPF it is difficult to make an informed response.

Local policies may still be appropriate and further clarification is needed on how this would fit into the emerging framework.

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

Q7(a). Do you agree with our proposals to replace existing legal and policy tests for Local Plans with a consolidated test of “sustainable development”, which would include consideration of environmental impact? *[Yes / No / Not sure. Please provide supporting statement.]*

Not sure

Currently, sustainable development is incorporated into the “consistent with national policy” test, whereby the NPPF provides a national definition for sustainable development which development plan documents are expected to adhere to. If sustainable development is to become a single test, this must incorporate the other tests of soundness in some form.

No detail is provided on what the test will entail, hence our ‘not sure’ response. On the basis that no detail is provided we would recommend that new tests are based on the original tests of soundness currently used which already provide an effective basis for examining local plans.

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

Whilst we note the White Paper proposes to remove the Duty to Cooperate, cooperation is often the only way certain outcomes, such as infrastructure and environmental issues, can be achieved, and also housing markets, do not follow district boundaries.

The need to cooperate will not change with proposals on binding housing requirements. Adjacent local authorities will still need to plan together to plan for wider strategic planning issues. Only with a wider view can developments be coordinated along public transport routes.

One reason for the under-use of the Duty to Cooperate has been the lack of incentives available to support joint working.

Replicating a mechanism to deal with cross-boundary issues is likely to result in a replication of the Duty to Cooperate. Incentivising use of the Duty to Cooperate with adjacent authorities on planning seems to be the most obvious way forward.

All councils will need to further develop partnership working skills at officer and member levels for effective cooperation to work. The Planning Delivery Fund⁵ helped overcome this barrier in some areas and additional and long term funding could help overcome the under-use of the Duty and to support strategic planning. The forthcoming Devolution and Local Growth White Paper will hopefully provide further opportunities for more structured approaches to local cooperation.

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

Q8(a). Do you agree that a standard method for establishing housing requirements (that takes into account constraints) should be introduced? *[Yes / No / Not sure. Please provide supporting statement.]*

Not sure

The standard methodology was introduced in 2018 with the aim of simplifying the method underpinning the assessment of the minimum number of homes needed in an area. The NHC responded to the planning consultation at that time⁶ welcoming a standardised method for establishing housing requirements, but identifying the following issues:

- A standard formulaic approach as a way of calculating local housing need where the starting point is a demographic baseline does not allow for the complexity and unique needs of local housing markets, which vary significantly from place to place
- The standard methodology does not allow for the alignment between housing numbers and economic growth.
- The proposed calculation of housing need risks putting the brakes on growth in Northern planning areas by planning for basic need which could lead to economic standstill.

The proposed changes to the standard method confirm that it remains the starting point for assessing local housing need and it is not the final housing requirement. It is important that this is stressed and well-understood, as otherwise it risks undermining the ambitions of local authorities who wish to go further.

The White Paper acknowledges that the standard method should support the Government's levelling-up objectives observing that it should "achieve a better distribution of homes where homes are identified in more high-demand areas and in emerging demand areas across the country (such as the Northern Powerhouse)".

Homes for the North, a group of housing associations in the North of England who are also NHC members, has been exploring the implications of the current and revised standard methods for regeneration of the Northern economy. While it has been the intention of current and previous governments to address regional imbalances, they find that the current standard method is undermining efforts to boost the northern economy through housing investment which could create tens of thousands of jobs and add billions of pounds to the economy.

⁵ DCLG Planning Delivery Fund

⁶ Planning for the Right Homes in the Right Places, NHC response to DCLG consultation 2017

The NHC supports the assessment made by Homes for the North in their submission to the consultation on Changes to the Current Planning System.⁷

The method proposed in the White Paper would raise the national figure generated from 250,600 to 337,300 homes per year, a rise of 35%. This results in a figure which exceeds the Government's national target. However, in the North, the proposed revisions to the standard method result in the overall figure increasing from 43,300 homes per annum to 49,800, an increase of just 15%. This rate of increase is minimal, compared to the increase of 35% nationally and, particularly when compared to the 67% increase for London.⁸

While the current method meant that Northern regions would need to plan for fewer homes than they have delivered in recent years, the new method brings the number closer to (but not yet at) recent delivery in the North. It also creates higher numbers across the south compared with the current method, but this will always be the case for a method with such a significant emphasis on affordability.

Calculations by the consultancy Lichfields, based on the proposed standard method show that it undermines the ambition and vision that the North has shown, particularly in areas which have been delivering significantly higher numbers over the last few years. For example, in Liverpool the average delivery over the last three years has been 2,817. The current standard method generates a figure of 1,558 and the proposed standard method only 1,154. Similarly, in Manchester the average delivery over the last three years has been 2,370, the current standard method figure is 2,613 and the proposed method generates only 1,645.⁹

Across the North, the proposed method results in a figure which is 6,180 dwellings per annum lower than the actual average level of housing delivery over the last three years, or 11%. Across the 72 Northern LPAs, only 31 have a housing requirement that is higher under the proposed method than their past delivery.¹⁰

In relative terms the proposed method generates an outcome for the North (against the current standard method position) which would constrain future housing development compared to the rest of the country. It generates a requirement which not only falls significantly short of the actual numbers currently being delivered in the North, but which is 23% lower than the number of homes that recent evidence suggests will be required for the North to begin to close the economic gap with the rest of the country. Research undertaken for Homes for the North in 2019 highlighted that in order to achieve the 'transformational' growth scenario set out in the Northern Powerhouse Independent Economic Review, an average of 65,000 new homes per annum are required between 2020 and 2050. So, far from levelling up the country, we believe the proposed Standard Method would exacerbate existing disparities.¹¹

An unintended consequence of the revised method will be a direction of development away from a number of urban areas, towards rural areas in the North. The proposed method will increase the housing requirement in many rural authorities as a result of the stock-base being too low and the affordability adjustment driving more housing towards high value areas. The shifting of housing need from urban centres such as Newcastle, Liverpool, Manchester and Leeds-Bradford to suburban and rural areas (with the most rural areas seeing a 59% increase in their requirements, much ahead of urban locations) is not only questionable planning but has exacerbated some of the kinds of political opposition to housing targets that the standard method was meant to alleviate.¹² This is also inconsistent with recent

⁷ Homes for the North submission to 'Changes to the Current Planning System' consultation

⁸ Ibid

⁹ CIH response to 'Changes to the current planning system' citing Lichfields analysis

¹⁰ Ibid

¹¹ The Role of Housing in the Northern Powerhouse – An analysis of the housing required to unlock the benefits of transport investment in the North of England' (July 2019) CEBR/Quod

¹² NHF response to 'Changes to the current planning system'

investment decisions – for example, MHCLG has recently allocated £276m from the Brownfield Housing Fund to Northern Combined Authorities to make brownfield development easier in these urban areas.

The NHC supports the case made by Homes for the North, and backed by many others in the North, for an alternative to the proposed standard method set out in the consultation.

We welcome Government's proposal to incorporate housing stock into the formula of the proposed changes to the standard method calculation. The NHC supports the case for a greater uplift in stock of 1% to be used as the starting point for assessing local housing need, and that this should be used in place of household projections, thereby removing the 'whichever is higher' option.

A stock-based approach provides a much more stable approach to identifying a baseline position and more closely reflects the current size of the housing market in an area and therefore the rate of change more likely related to the scale of demand activity.

We also recommend that the affordability adjustment for the change of affordability over 10 years incorporated into the proposed Standard Method should be deleted and the method should include an affordability adjustment based on a single affordability ratio, as now.

This would dampen the affordability adjustment which fails to reflect the issues in the North and is driving unsustainably higher numbers in the south. Furthermore, this would permit the inclusion of a higher stock baseline without resulting in unrealistically high numbers nationally.

Q8(b). Do you agree that affordability and the extent of existing urban areas are appropriate indicators of the quantity of development to be accommodated? [Yes / No / Not sure. Please provide supporting statement.]

No

Affordability is not the principle driver of housing need in the North. Solely focusing on affordability for an uplift within the Standard Method overly-simplifies the drivers of housing markets and results in a level of housing which is insufficient to meet critical jobs growth aspirations for the North.

Indicators focused on affordability in low value areas would continue to see an insufficient amount of housing built.

There are multiple other factors to consider when establishing housing need and proceeding on the basis of affordability will continue to focus investment in existing growth areas rather than levelling up those regions that have faced under-investment.

The current and proposed methods' focus on affordability has a minimal uplift effect in the North compared to the South, where affordability ratios used as the basis of the uplift are significantly higher. High affordability ratios now have a double effect, as the formula considers both current affordability along with the change over a 10-year period, and this is partly what is driving the unrealistically high requirements in many areas of London and the South generated by the proposed method.

We support Homes for the North in recommending that the affordability adjustment for the change of affordability over 10 years incorporated into the proposed Standard Method should be deleted and the method should include an affordability adjustment based on a single affordability ratio, as now.

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.

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? *[Yes / No / Not sure. Please provide supporting statement.]*

No

The proposal offers efficiencies, but this must not be at the expense of local community ability to input, shape and determine the development of an area. Democratic oversight and community input into planning decisions is a key feature of the planning system and must be retained.

Extending PiP to sites identified as growth areas would result in development control shifting from consideration of whether development should take place, to consideration of whether the development meets a pattern book of designs with which development would need to comply. On the face of it, implies a faster route to development. However, major development is by its nature and scale more complex, and inevitably, requires more in-depth analysis by councils to determine its appropriateness in a particular setting.

The pre-existing work established through the local plan will not replace the need to consider development in relation for example to the numbers, densities, scale and layout. In this regard, PiPs on larger developments are likely to be less helpful. A developer will not be able to move forward with a site without detail clarifying the numbers, tenure mix and layout of the proposal.

LPA's have existing powers under the Housing and Planning Act 2016 to designate small housing development on brownfield sites as benefiting from PiP, but these have been rarely used and only apply on a scheme by scheme basis in relation to housing led projects. Data on PiP applications has only been collected for the first time since April 2020. Up to June 2020 there have been 15 PiP applications on minor developments in the three Northern regions (with 5 refusals).¹³

We consider that, bearing in mind the infrequency of current use on minor development, a review should be undertaken of the impact of the existing Permission in Principle process for minor development before extending it to major development.

Q9(b). Do you agree with our proposals above for the consent arrangements for Renewal and Protected areas? *[Yes / No / Not sure. Please provide supporting statement.]*

No

Given our objections at question 9(a), we would not support the proposed consent arrangements set out in the White Paper. Protected areas should continue to follow more stringent planning application processes.

Q9(c). Do you think there is a case for allowing new settlements to be brought forward under the Nationally Significant Infrastructure Projects regime? *[Yes / No / Not sure. Please provide supporting statement.]*

No reply

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

¹³ [Government statistical data sets live tables on planning application statistics Table TDC1 accessed on 19 October 2020](#)

Q10. Do you agree with our proposals to make decision-making faster and more certain? *[Yes / No / Not sure. Please provide supporting statement.]*

No

We welcome proposals to simplify decision-making. Greater certainty will reduce the risk associated with development, which could see more homes brought forward at greater pace. It is also possible that this may address some of the issues with inflated market land values. Greater certainty for all involved in the development process means land can be priced appropriately by developers. This prevents land speculation and unrealistic land price expectations.

The increased reliance on digitally standardised processes may help to improve consistency of approach across the planning system.

However, negotiations take time, involve multi-stakeholders and delays are often outside of the control of LPAs. We are not convinced that the simplicity sought in the proposed framework is achievable.

The proposals include an overly simplistic approach to incentivising LPAs to make decisions within statutory timescales. In most cases, decisions that take longer do so for good reasons, and a fining mechanism will not achieve a better decision in shorter time. The danger is the over-simplification of information to the point that it does not fulfil the purpose of providing sufficient informing for the decision maker.

There are resource implications of developing and implementing such a system and central funding will be required to support this. It will also be necessary for new burden funding to take account of any long-term increased costs on councils as new datasets may need both creating as complete sets for the first time and then kept up to date.

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

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

Yes

Many LPAs have made huge strides to digitisation already and we support the use of increased digitisation within the planning process, and particularly to simplify, speed up and increase engagement.

Referring to comments on cross-boundary working and the Duty to Cooperate, consideration could be given to cross-boundary maps, enabling sight of development and transport infrastructure and services in adjoining areas.

There will be substantial resource implications of creating and then transitioning to the new system, and transitional funding from central government will be required.

There may also be skills gaps within LPAs which could require upskilling or recruitment to ensure these systems are fully functional and properly utilised. While we would like to see greater use of technology and web-based systems, this should not be at the expense of other improvements to the planning system. We would rather that the whole planning system became quicker and easier.

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.

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

No

We support the ambition to speed up the Plan-making process but do not see the proposals on timescale as realistic for LPAs are stakeholders, including developers, and inspectors.

Compared to the current average Plan-making time (seven or eight years), 30 months would represent an extreme change – and the same work would be required as currently, only in a different order and format by front-loading much of the decision-making that is currently left to case-by-case decisions through the planning application process.

The 30-month proposal is undeliverable in this context.

We would propose that the performance of LPAs be assessed through the existing democratic framework. The White Paper sets out several areas which waters down of scrutiny within the plan-making process. The potential by-passing of the Planning Committee process, and the Examination process are of particular concern and could lead to mistrust in the accountability of the planning process.

If this proposal is implemented, there will be considerable resource implications. Assessment of land for zoning and the designation of outline planning permission through growth zones, is a huge undertaking requiring a review of hundreds of development options. The necessary cross boundary co-operation must also be recognised.

If a plan making process is to be carried out that delivers sustainable development, the assessment methodology of sites must be rigorous and be completed over an appropriate timeframe that ensures full due diligence is undertaken. There remains a need for detailed consideration which should not be lost or curtailed by an unnecessarily restrictive timeframe.

The proposals must include a realistic assessment of how much will be needed to make severely under-resourced planning authorities capable of delivering new local plans for a new planning system in 30 months along with all the other burdens introduced.

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

Q13(a). Do you agree that Neighbourhood Plans should be retained in the reformed planning system? [Yes / No / Not sure. Please provide supporting statement.]

Yes

Neighbourhood plans have the potential to ensure local communities can meaningfully input into the planning system and can be an important vehicle to help communities shape development in their areas

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?

As with Local Plans, we would be keen to see Neighbourhood Plans utilise technology. This has the potential to allow more people to become engaged in the planning process as it can be accessed at any time. Conversely, it does have the potential to exclude those who are non-digital. Ways of including the broad range of people who live in communities will need to be considered.

Provision must be made for LPAs to be able to afford new digital tools.

Proposal 10: A stronger emphasis on build out through planning

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 / No / Not sure. Please provide supporting statement.]

Yes

Planning is an important enabling process with local authorities identifying land, supporting provision of infrastructure and processing planning applications. But analysis has shown that the market determines build out of developments.¹⁴ Our local authority members confirm that in their experience the planning process is not the main constraint for build out rates.

The percentage of planning permissions being granted by local authorities has remained steady and in 2017-18, local authorities approved 81% of major residential planning applications.¹⁵

For 2018/19 there are 141,061 housing units with detailed planning approval in the North¹⁶ and net additional dwellings in the North for the same period are 60,109.¹⁷

If the Infrastructure Levy as proposed is introduced and applies on the completion of development, then measures to support build out will be more important. We agree that planning reform should include measures to ensure the build out of sites with permission. To increase build out rates, Northern areas need:

- Diversification of tenure – LPAs having more powers to direct the diversification of products within sites building more social housing for rent and other genuinely affordable homes, the sort of housing for which there is massive demand. The Affordable Homes Programme supports this effectively in the North.
- Viable Land - through the Brownfield Land Fund, Local and Combined authorities are working to unlock otherwise stalled opportunities. We believe there is scope for further rounds of this Fund, and to extend it across the whole of the North. We have called for the Chancellor to do so at the Comprehensive Spending Review.
- Powers – LPAs should have greater powers to act where housebuilding has stalled such as a streamlined Compulsory Purchase Order process. Consideration should also be given to introduction of financial penalties to incentivise build out rates, for example council tax charges on developers who do not build out to the rate agreed with a local planning authority or a developer's build-out history could be taken into account in the achievement of planning permission.
- Resources – we support measures to speed up development but as yet no new funding has been offered to help with the resourcing of planning departments.

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

No reply

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

No reply

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.

¹⁴ Independent Review of Build Out 2018 Sir Oliver Letwin

¹⁵ National Audit Office Planning for New Homes 2019

¹⁶ Housing Pipeline report HBF – Q3 2019 Report February 2020

¹⁷ MHCLG Live tables on housing supply: net additional dwellings Table 118 2018/19

Q17. Do you agree with our proposals for improving the production and use of design guides and codes? [Yes / No / Not sure. Please provide supporting statement.]

Not sure

Welcome the commitment to high quality design and design codes can be a useful tool to efficiently secure appropriate design. The best codes employ a degree of flexibility to ensure site specific response can be implemented. As proposed, a lot of design codes may need to be included upfront with the Local Plan and its allocations, especially in growth zones. This approach would have a significant resource implication, and local authorities must be sufficiently resourced to deliver this ambition.

Grant funding will be required to support design training, specialist expertise, and design-focused policy in every local authority. A priority for funding should be making sure enough money is available for every local authority to develop proposed design codes.

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.

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 / No / Not sure. Please provide supporting statement.]

Not sure

A new central body should not take away the ability of councils to make decisions locally on what type of development is appropriate in a local area.

If design codes are introduced as described, clear guidance and support will be needed to secure a positive impact and therefore a body that champions design and actively supports authorities and builders to deliver good design, would be positive.

The creation of statutory role in local authorities would elevate design as a consideration but it is important to understand how such a role is defined and how it would sit alongside existing equivalent chief planning officer roles, for example, will this role be subsumed under a chief planning officers role?

Any obligation for a local authority to employ a statutory role such as this must be reflected in the resources made available to create the role.

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.

Q19. Do you agree with our proposal to consider how design might be given greater emphasis in the strategic objectives for Homes England? [Yes / No / Not sure. Please provide supporting statement.]

Yes

As the government's primary agent for the delivery of new homes, it would be appropriate for the agency to align to government ambitions to improve design quality and set high quality standards. The proposal to review Homes England's strategic objectives also presents the opportunity to consider how the Agency's funding streams and capacity can be deployed in support of other Government priorities. We would suggest that 'levelling-up' and contributing to the Government's net zero ambitions are also priorities worthy of reflection in Homes England's strategic objectives.

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.

Q20. Do you agree with our proposals for implementing a fast-track for beauty? [Yes / No / Not sure. Please provide supporting statement.]

No

Producing and consulting on locally agreed codes an extensive process and once in place will need to be reviewed regularly. We do not agree with the proposal (para 3.19) to widen the nature of permitted development as this often leads to poor quality development and places that are far from 'beautiful.'

The loss of oversight at the consent stage should be balanced by an increased emphasis on enforcement against poor development that does not deliver as expected.

Local Authorities will need to have the appropriate skills and sufficient resources to appraise 'beautiful' applications.

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

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

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

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

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

No reply

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

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

No

Despite any flaws with the current system of developer contributions, if the proposed Levy is to be operated nationally, given the significant variations in the values that can be captured from development, it will be essential that individual local authorities can continue to apply their own locally derived policies and approaches to deal with their specific circumstances.

We have numerous concerns that the proposal as it stands does not provide enough details to give comfort that, in the absence of CIL and S106 agreements, that sufficient contributions will be achieved in Northern areas to deliver the infrastructure and the right mix of tenures, of the right quality and in the right places. Overall, the Levy as proposed would lead to less affordable housing in the North.

The current system of planning obligations regularly feature delays as a result of lengthy negotiation. As the recent study, commissioned by MHCLG, led by the University of Liverpool stated, it is important to distinguish between unavoidable delays – those that are an inherent aspect of the negotiation of planning obligations – and avoidable delays that result from LPA capacity, skills and resourcing or as a tactic to negotiate a reduction in the developer contributions requested.¹⁸

Our detailed concerns / comments are as follows:

- **The proposal aims to “sweep away months of negotiation of Section 106 agreements:”** The Levy may give greater certainty over contributions but the way to regulate this between councils and developers without a S106 agreement to provide affordable housing will be critical. Increased grant funding for affordable homes to rent may become more important. A wide range of legal obligations and mitigations are secured within a S106 agreement such as biodiversity commitments, flood prevention, and land transfer. There is a need to continue with S106 to deliver these agreements. Research shows that LPAs would welcome greater training to deliver effectively on developer contributions, especially for viability assessment.¹⁹ The mechanisms by which such obligations would continue to be secured need full description and it may be essential that S106 remains available in a form to secure such mitigation and covenants on land and to ensure the delivery of site-specific requirements.
- **Land-securing nature of S106:** The usefulness of S106 in securing and using land does not seem to be captured by the new Levy. Footnote 16 of the White Paper refers to S106 in some form for “covenant[s] against the land” but where the value of the development would be captured through the Levy, rather than S106. The scope of S106 is much wider than the financial contributions and affordable housing delivery and the proposal could severely limit the nature and degree of control local authorities would have over developments and land use.
- **Final value of a development:** With a Levy set at the final value of the development, high value areas, that is the South (with much higher land values) will collect much more Levy than the North, contrary to Government agenda of levelling up. We have commented on the need for this to be localised. The Levy should function in a way that redistributes development towards the North. This could be “levelling down” if not managed correctly.

One of our member organisations, Together Housing Group commented, *‘As a provider of affordable housing in the North of England, we have some concerns that charging based on the development value could disadvantage the areas we operate in. We operate in areas where development values are low and therefore less affordable housing will be delivered.’*

Higher value / lower affordability areas also continue to benefit from ‘geographic targeting’ funding distribution rules (80:20) and Green Book appraisal criteria, unless there is fundamental reform, as the NHC and Homes for the North are calling for. The areas that really need investment to level up will have the lowest capacity to generate it.

- **A value-based minimum threshold below which the levy is not charged:** De minimis thresholds do not consider the amount spent by the developers in making land viable (only the final value) and so the cost of the Levy could conceivably discourage development in those areas. It is unclear how Northern local authorities in areas of poor viability, where no Levy could be charged, will secure the necessary infrastructure, including that to address site specific needs.

¹⁸ MHCLG ‘The Incidence, Value and Delivery of Planning Obligations and Community Infrastructure Levy in England in 2018/19’ University of Liverpool August 2020

¹⁹ Ibid pg 11

- **Be levied at point of occupation:** The current CIL payment trigger is commencement, and this is a much easier point to monitor than occupation. What happens if one unit out of 1000 is left unoccupied to avoid payment of the Levy? We do not support a mechanism that delays payments from developers to any later point than in the process. This generates questions of reliability of expected final values i.e. will a developer undervalue the project, what happens if the planning permission is not built out for a few years and values increase/decrease in that time? Requiring payment at later stages of a development build also increases the risks for LPAs with regards borrowing for infrastructure delivery. Local Authorities would need to pursue unpaid due amounts via legal action – creating additional costs, time and resources.
- **Affordable Housing Developments:** The consultation does not make clear whether developments of housing specifically intended to be affordable would be subject to the Levy. Affordable housing development should be exempt from the Levy as it does not generate the level of profits that market sale developments deliver and often only cover the costs of the development. This would also help to support the delivery of affordable housing, which might otherwise reduce at a time where the need for this is so great.
- **Nationally set rates:** In lower value areas where viability is an issue there may not be any money generated and this will not achieve the necessary levelling up required. The idea of a ‘standard rate’ could be considered a blunt instrument and not reflective of local market conditions. There is a risk that authorities end up with a low rate that is insufficient to meet infrastructure (including Affordable Housing) needs and requirements. There are significant variations in the values that can be captured from development. It is essential therefore that individual local authorities can continue to apply their own locally derived policies and approaches to deal with their specific circumstances. (see also response to Q22b)
- **Resources to deliver the reforms:** The paper proposes that applicants, not the taxpayer should fund the new system with a small proportion of the income earmarked to LPAs to cover their overall planning costs. Aligning funding with the Levy could exacerbate regional inequality so that areas with reduced Levy charges and more limited options to cross-subsidise the new planning activities could face a spiral of under-resourcing. The proposals must include a realistic assessment of how much will be needed to make severely under-resourced planning authorities capable of delivering new local plans for a new planning system in 30 months along with all the other burdens introduced.

In our submission to the Spending Review we called for a package that provides a sustained real-terms increase in local government funding which could enable local government to build back services like housing and planning. We have also called for a national centre of specialist expertise, located in the North, and open to all. We believe this should consider planning and housing resourcing, and the former Minister of State for Housing’s suggestion of a ‘planning A-team’ who could support councils with these specialist skills.

More detail is required, including worked examples to demonstrate that local authority funding that is secured through the existing mechanisms is not reduced, especially in regard to the provision of affordable housing, primarily secure through S106.

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

Locally

An Infrastructure Levy's rates should be set locally to reflect local circumstances.

A locally set rate would allow LPAs to make some adjustment for the actual likely costs in their area, considering both local market factors and the existing level of infrastructure provision.

A nationally set single rate, would disadvantage areas which have challenging viability issues such as sites with significant constraints. We believe national rates would discourage developers to bring forward land in areas with significant constraints. Local setting would hopefully see housing, including affordable housing, delivered in the areas where it is most needed – areas that need levelling up - and not just where it is most profitable for the developers. Our members do not support national level setting; local differences in the market must be considered.

Land values and development costs vary significantly across the country and therefore a mechanism that levy's contributions to infrastructure and other planning obligations must be response to local conditions. Even if set nationally and adjusted locally, it may still be necessary to build in a mechanism that allows local authorities to adjust the approach in their own area, related to their local objectives.

To ensure that the rate reflects local circumstances, development costs, local infrastructure requirements, locally specific design codes, the rate must be set locally.

Clear guidance should support local authorities to ensure rates are reflected in reduced land values in designated areas, profit margins (particularly for large scale developers) are not excessive, and costs of development are not inflated.

If the levy is introduced as proposed, local authorities should be have the ability to exempt or reduce the levy, in areas where they wish to encourage regeneration and to increase it where requirements for infrastructure or services necessary for the development, are particularly high.

We believe it should be a national obligation for Local Authorities to adopt the Levy, if it is introduced, but believe it is crucial that the rates are set locally.

22(c). Should the Infrastructure Levy aim to capture the same amount of value overall, or more value, to support greater investment in infrastructure, affordable housing and local communities? [Same amount overall / More value / Less value / Not sure. Please provide supporting statement.]

More value

In making changes to the current s106 and CIL framework it is essential that local authorities secure at least the same amount of value. Current mechanisms are a vital part of the funding stream that secures and delivers physical and community infrastructure and a lot of services that are highly valued by communities are provided this way including highways, schools, green and recreation spaces, and affordable housing.

This should be informed by local viability evidence and would depend on what an area's current affordable housing policy is.

Ultimately, landowners see a remarkable return on land value when a planning permission is granted compared to the existing use value, particularly if the site is greenfield and the planning permission is for residential. More of this uplift in land value should be captured by an Infrastructure Levy to enable greater investment in infrastructure, affordable housing and local communities.

If affordable housing can no longer be secured through planning obligations then the IL should at least capture sufficient value to fund the affordable housing which would have been secured through planning obligations and that additional value which would have been secured through any CIL / other obligations. Otherwise, insufficient values will be created with which to fund necessary infrastructure and affordable housing, and local authorities will be forced to choose between the two, meaning that developments will not be sustainable.

22(d). Should we allow local authorities to borrow against the Infrastructure Levy, to support infrastructure delivery in their area? [Yes / No / Not sure. Please provide supporting statement.]

Yes

However, there is risk in this for local authorities, depending on how the Levy is calculated and implemented. To help reduce this risk, the point of payment by developers should be commencement of development, not occupation, or possibly captured at the point of land sale, directly from the landowner.

In principle, borrowing against future Levy receipts would enable local authorities to play a greater role in infrastructure delivery but may expose local authorities to financial risk where they are reliant upon development that does not come forward.

Very clear guidance and legislation should be put in place that ensures that local authorities can support growth and development through infrastructure provision, whilst at the same time, anticipates and insulates against potential risk of doing so.

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

23. Do you agree that the scope of the reformed Infrastructure Levy should capture changes of use through permitted development rights? [Yes / No / Not sure. Please provide supporting statement.]

Yes

The new levy applying to permitted developments will address some concerns, given that additional residential units create additional pressure on local infrastructure. But extending permitted development rights give bigger concerns around the quality of housing. Local authorities have a vital role to play in enforcing good standards. But for many, capacity shortages are a principal barrier. A reduction in service spend across local authorities has been particularly marked for Northern authorities, leading to significant loss of housing and planning capacity. Between 2010/11 and 2018/19 the reduction in spend in Northern authorities on building control was 61% and development control 62.8%.²⁰

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

24(a). Do you agree that we should aim to secure at least the same amount of affordable housing under the Infrastructure Levy, and as much on-site affordable provision, as at present? [Yes / No / Not sure. Please provide supporting statement.]

Yes

We strongly support the provision of at least as much affordable housing being provided as is provided under the current system. In 2018/19 the value of agreed planning obligations for affordable housing in the Northern regions was £659m.²¹ If delivery is to be maintained, any loss of planning obligations will need to be replaced by a substantial increase in grant funding.

We believe that affordable housing provision will be reduced under the proposals:

- Lower value areas will create lower levy receipts and it is unclear how LAs in lower value areas will secure enough affordable housing.
- LPAs will be able to mandate on-site delivery but, it is not clear how developers will be prevented from negotiating away the obligation by viability arguments, and thereby maintaining the existing flaws with protracted S106 negotiations.

²⁰ NHC *Time to Level Up: Local Authority Housing and Planning Capacity in the North of England*

²¹ MHCGL 'The Incidence, Value and Delivery of Planning Obligations and Community Infrastructure Levy in England in 2018-19' University of Liverpool August 2020

- Where an LPA does not make on-site delivery mandatory, any on-site affordable housing would be provided on a voluntary basis with the offset against the levy being used as an incentive to do so. But if an LPA has not made on-site delivery mandatory, then setting any policy levels for affordable housing will be meaningless if on-site delivery is down to being an incentive to reduce the levy.
- The proposal assumes there is local authority capacity and an appropriate skillset to undertake or co-ordinate the use of Levy to deliver affordable housing.
- Agreement for the delivery of large infrastructure is an essential element of the framework with LAs increasingly relying on Highways England or government funding for major infrastructure schemes. The proposal does not refer to implications for capital funding guidance how it would be considered in the new Levy mechanism.
- We believe a repeal of S106 will lead to less affordable housing, and there is therefore a case to be made for the retention of S106 (or similar) to deal specifically with affordable housing.
- The White Paper refers to broader investment in social housing. Providing affordable housing off-site reduces the ability to mix housing tenures within communities and provide tenure blind developments. If the First Homes requirement is taken forward an increase in affordable housing through the Affordable Homes Programme would be necessary to compensate for the loss of other types of affordable homes, particularly those for social rent. However, we would not want to see affordable housing being separated from market housing and in poor locations of poor quality.
- Small sites threshold - affordable housing will be reduced by raising the threshold at which affordable housing is required.

The separate consultation on ‘Changes to the current planning system’ estimates that affordable housing could be reduced by up to 20%, the loss will be much greater in some areas. This proposal has caused particular concern among rural affordable housing providers. Rural areas are disproportionately dependent on S106 contributions. Over the three years 2016/17-2018/19, 70% of new affordable homes in rural locations were secured via S106 agreements (compared with 48% in urban areas).²²

42% of local authorities said they would have lost more than 50% of the affordable housing in their rural communities of 3,000 people or fewer if these thresholds had applied over the last two years.²³ It is not only rural areas that should be concerned with the loss of affordable housing on small sites. MHCLG’s own data shows that in 2018/19, almost a quarter of local authority areas recording S106 completions secured all of these in batches of 15 or fewer. Such contributions accounted for under 5% of S106 supply in the South East but 17% across the North.²⁴

24(b). Should affordable housing be secured as in-kind payment towards the Infrastructure Levy, or as a ‘right to purchase’ at discounted rates for local authorities? [Yes / No / Not sure. Please provide supporting statement.]

Not sure

Financial contributions in lieu of affordable housing are not the most appropriate solution in all areas.

- It is unclear whether it is proposed that any contribution in lieu of affordable housing on a particular site will be expected to be ring-fenced for the development of affordable housing in that immediate locality or whether the contribution received for affordable housing will be

²² NHF Supply Survey

²³ Rural Services Network Survey

²⁴ NHF Supply Survey

pooled and spent on sites perhaps located somewhere else in the local authorities administrative area;

- The provision of affordable homes as built products as opposed to an in-kind payment ensures that the physical numbers of affordable homes increase at a steady pace;
- The 'right to purchase' has the risk that as the developer would have the discretion over which properties to sell to the LA at a discounted price, they will pick those they are struggling to sell;
- The White Paper discusses a risk sharing agreement whereby the LA can reduce the number of units it has signed up to, but this makes it difficult for Registered Providers to plan commercially;
- If the Government is considering the alternative proposal of a right of first refusal on a set proportion of dwellings on site, how would a nationally set proportion reflect local needs?

24(c). If an in-kind delivery approach is taken, should we mitigate against local authority overpayment risk? [Yes / No / Not sure. Please provide supporting statement.]

Yes

An 'excess' of Levy will be unlikely for most LAs once core infrastructure obligations have been met, although the model proposed means that market downturns could lead to an overpayment risk. In respect of the potential to flip back on-site units to a developer, if the market is such that the in-kind value is greater than the levy liability, it is not clear how the decision would be made to determine this. It is also not clear where this leaves the Registered Provider if the Local Authority can later reduce the number of units it has signed up to.

24(d). If an in-kind delivery approach is taken, are there additional steps that would need to be taken to support affordable housing quality? [Yes / No / Not sure. Please provide supporting statement.]

Not sure

This is unlikely where on-site affordable housing provision is transferred to a Registered Provider, but we agree with the option for Local Authorities to revert back to a cash levy if no Registered Provider is willing to buy homes due to their poor quality; this incentive and sanction is needed to ensure high quality homes. We question whether a mere sanction of local authorities walking away from a development would be effective, given that the developer may be able realise a higher price on private market sales. Where discount market sales are handled by the developer themselves, they must be required to ensure the discount market product is the same as the market housing product.

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

25. Should local authorities have fewer restrictions over how they spend the Infrastructure Levy? [Yes / No / Not sure. Please provide supporting statement.]

Yes

LAs should be able to determine the need for spending on infrastructure as well as affordable housing but while we agree that Local Authorities should have fewer restrictions in how they spend the Levy, 25% of the Levy should always be ringfenced to be spent on onsite affordable housing provision as per the policies in the NPPF and the Local Plan. The Levy should not be used for core services or reducing council tax payments.

Transparency on the local infrastructure priorities should be clear. This information is important in order to engage with other infrastructure providers and statutory consultees.

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

Yes

If affordable housing is to be secured through the Levy, a proportion of it should be ring-fenced for affordable housing delivery to avoid competition with other needs.

If there is to be national setting of how much Levy is ringfenced for affordable housing, this should vary across the country according to local needs, again 'levelling up' in mind. Affordable housing should be ring-fenced for on-site delivery in market housing estates as per the position now linked to the NPPF and Local Plan policies and affordable housing need in that area.

To ensure the purpose of the Levy is not diluted (and therefore put at risk infrastructure delivery) it is important to recognise the affordable housing contributions are a separate resource for a specific purpose. This will, no doubt, create greater complexity in the administration of the levy, in terms of further apportionment of receipts.

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.

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

Q26. Do you have any views on the potential impact of the proposals raised in this consultation on people with protected characteristics as defined in section 149 of the Equality Act 2010?

No reply

For further information about this submission, please contact

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