



**Homes for the North
Submission to Planning for the Future - a
consultation on proposals for reform of the
planning system in England**

October 2020

Overview

This submission comes from Homes for the North (H4N), an alliance of 17 of the North's largest developing housing associations. It is in response to Planning for the Future, a consultation on proposals for reform of the planning system in England.

We welcome the opportunity to respond to this consultation and recognise the Government's ambition in seeking to accelerate, simplify and demystify the planning system, to ensure that it is effective in supporting the delivery of more than 300,000 homes each and every year. There is much in these proposals which we can support.

However, our long experience tells us that the development process is a complex one, and planning is not the only reason for delays and inefficiencies that have slowed housebuilding. The implementation of fundamental change will be highly complex, and will come at a time of huge uncertainty as the country seeks to recover from the economic damage suffered as a result of addressing the pandemic, where the resources and energies of Government departments and local authorities have rightly been focused elsewhere. In this context, there needs to be clear evidence that the changes proposed will lead to something that is better, not simply something that is different. Given the scale of disruption that will inevitably follow, the 'prize' needs to be substantial, and the likelihood of achieving it high. We are concerned that convincing evidence has not been provided which supports all the changes proposed.

We also believe that the Government should adopt two further objectives in seeking to reform the planning system. These are:

- Any new system must support the Government's national spatial objectives, as it seeks to level-up growth and opportunity across a very unequal country.
- The new system should support devolution and local democracy in the plan making process, and proposals around the planning system must compliment the direction of travel to be set out in the forthcoming Devolution White Paper.

In formulating our response, we have not attempted to answer every question. Rather we have focussed on those which are of most relevant to the development of housing and affordable housing in the North of England, the area we understand best.

In summary our key responses are as follows:

- ✓ Local plans must set out requirements for affordable housing on a site by site or area basis from the outset. They should not only focus on the scale and location of the homes to be provided – identifying the type of housing is essential too. The extent to which this has been achieved should be examined as part of the Sustainable Development test.
- ✓ Housing requirements should be established early in the local plan process and through a consistent method, but their establishment should remain the responsibility of the local authority rather than being handed down by Government without discussion or local scrutiny. Whilst a national formula should be the starting point for this process, subsequent adjustments must take account of complex local factors and be subject to examination early in the process to avoid disputes when the plan is approved.
- ✓ Securing higher contributions to affordable housing and infrastructure should be secured by reforming the existing s106/CIL system, which has been delivering better outcomes year on year. A new system should only be introduced following an evaluated pilot, and only if there is clear evidence that it will deliver more and is able to secure the on-site

provision of affordable housing or other essential infrastructure with resources that are protected from wider use. All funding available to support affordable housing and infrastructure should be considered holistically, with Government cash subsidy balancing resources generated through the planning system, to ensure the Government's spatial objectives are met.

- ✓ Collaboration between neighbouring local authorities at a sub-regional level is essential and has become one of the key characteristics of successful devolution in England. Reforms to the planning system should encourage this, and the duty to co-operate should remain in place until such a time as sub-regional devolution structures have matured to ensure this will happen automatically. The largest scale housing developments should be regarded as nationally important infrastructure, with a Northern Infrastructure Commission created to oversee and join-up the delivery of large-scale infrastructure in the North of England.
- ✓ The process for developing local plans should be more iterative, allowing for consultation and examination of elements of the plan throughout its development, to avoid the need for major changes at the end of the process.

About H4N

H4N is an alliance of 17 of the largest developing housing associations operating in the North of England. We bring together providers of affordable housing across the three Northern regions to deliver policy solutions to the housing crisis and make a compelling case for a stronger role for housing in achieving the objectives of the Government's Northern Powerhouse Strategy. H4N undertakes research to make evidence-based policy recommendations which demonstrate the critical importance of good housing to the growth of the Northern economy and the wellbeing of its people – a key enabler of 'levelling-up'.

Collectively, we add approximately £2.5bn per year to the Northern economy, provide affordable homes for 1 million people and employ 17,500 people across the region. Our members have an appetite to do more, already planning 24,000 homes for development over the next three years. This includes a mix of social, affordable and market housing. Unlocking sites and investment in the North would enable housing associations to expand on this impact, providing high quality homes and investment in people in their communities.

We have identified two key challenges to the supply of more homes in the North of England related to housing land supply and the distribution of housing investment.

1. **Greater Investment:** Provide the infrastructure needed to support a new strategic housing offer.
2. **Changes to the planning system:** Ensure the right homes are built in the right places.

A lack of reform in both areas, risks hampering the delivery of the homes required to revitalise communities and support economic growth in the North of England.

Response to the Consultation Questions

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

We agree that it is important to have an appropriate balance of local and national development management policies, avoiding unnecessary duplication or variation. However, we believe that there should be specific requirements for development management policies at they apply to the provision of affordable housing.

Affordable Housing

All Local Plans should be required to set out an affordable housing requirement as part of a bespoke local development management policy. This should be site or area specific and clearly evidenced to reflect local needs, setting out a required mix of tenures and types, including housing for older people and affordable homes for first time buyers.

The total affordability requirement set out in the plan should be well evidenced and should be independent of viability considerations. However the total requirement should then be split to indicate how much provision is expected to be delivered with support from the Infrastructure Levy (or s106 if retained), and how much will require public subsidy through the support of Homes England.

The process used for establishing affordable housing requirements, including the rigour of the evidence base deployed, should be considered as part of the Sustainable Development Test, to be applied as part of the Local Plan approval process.

A national development management policy should be established, setting out a minimum acceptable level of affordable housing provision for all housing sites, and establishing a presumption in favour of the on-site provision of affordable housing as part of mixed-tenure developments.

These proposals will ensure that evidence-based affordable housing requirements become a fundamental part of the local planning process and are 'baked' into local plans from the outset in a transparent way, with a clear emphasis on on-site provision.

This will, in turn, provide a clear framework for the prioritisation of the totality of resources for affordable housing, either generated through the Infrastructure Levy (or s106 agreements if retained), or provided by way of public subsidy through Homes England, enabling a more effective strategic approach to the allocation of the housing investment it is responsible for.

Other Development Management Policies

A National Development Management Policy should be established setting out broad objectives for reducing carbon emissions from housing in line with Government objectives to achieve zero net carbon emissions by 2050.

Detailed technical and construction standards - which will vary more frequently - should be set out in Building Regulations. Local authorities should not be permitted to establish local standards relating to carbon emissions, accessibility, dwelling sizes or any other construction issues through local development management policies, as this would become a significant barrier to standardisation, and the roll out of efficient procurement and production approaches such as Modern Methods of Construction (MMC).

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

Whilst we welcome the proposed application of a consolidated Sustainable Development test to the examination of local plans, it should remain rigorous and subject to external scrutiny. The concept of ‘sustainability’ is broad and open to a range of interpretations, and so the scope and nature of the test needs to be clearly set out in the National Planning Policy Framework (NPPF).

This test should embrace best practice to consider:

- the impact of development under the plan (i.e. the plan’s substantive content) in achieving the strategic ambitions of the local authority and any national priorities. This should include an assessment of the extent to which the plan meets strategic considerations such as the need for growth to achieve ‘levelling-up’, or renewal to tackle deep seated deprivation.
- a rigorous assessment of the environmental impact of the plan on carbon emissions, flood risks, biodiversity etc.
- the processes used in the development of the plan. Process considerations should include the quality of the evidence base utilised (for example as it applies to affordable housing requirements, environmental impact etc.), the nature and extent of public engagement, including with key stakeholders such as housing providers, and the extent of cross-local authority collaboration.

Rather than applying the test at the end of the production timeline, consideration should be given to a more continuous and iterative process. This could involve an inspector being allocated to the development of each plan early in the process, where possible ‘signing off’ the development of the plan in stages to avoid the need to revisit fundamental decisions later in the process when statutory deadlines are imminent. This continuous engagement could be effective in confirming that satisfactory public and stakeholder engagement has been undertaken, and the quality of the evidence base used to consider affordable housing numbers and environmental impact.

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

H4N is a pan-Northern network. We understand the value of strategically working with partners across local authority boundaries. The UK2070 Commission report issued in February 2020¹ set out the importance of spatial planning at larger geographical areas to genuinely achieve levelling-up and overcome systemic spatial inequalities.

A recent County Councils Network report² underlines the importance of an effective approach to strategic spatial planning. The report recommends an approach to strategic planning which supports place-based growth with long-term spatial, environment and infrastructure opportunities fully integrated and with investment strategies aligned. Such an

¹ The UK2070 Papers – Series 2 <http://uk2070.org.uk/wp-content/uploads/2020/09/The-UK2070-Papers-Series-Two.pdf>

² County Councils Network – Planning Reforms & the Role of Strategic Planning <http://www.countycouncilsnetwork.org.uk/download/3224/>

approach would support the levelling-up agenda by helping to inform sub-national funding allocations including housing.

Very few, if any, local authority borders are co-terminus with functional economic areas. In order to realise the shared and ambitious Northern economic growth set out in the Northern Powerhouse Independent Economic Review³, we feel it is critical that cross-border working has a role throughout the strategic planning process, whether in developing local plans or in large scale infrastructure developments. The Planning Inspectorate must challenge individual local authorities to understand how neighbouring authorities and wider stakeholders have fed into the strategic planning process.

Understanding respective roles of places across city regional/functional economic areas in terms of employment opportunities, brownfield development, transport links and sector specialisms will result in a much more informed and cohesive approach to sustainable planning. We believe the Northern Mayors and Combined Authorities have an important role to play in this process and are keen to understand the Government's longer-term devolution vision for the North.

In the absence of an alternative approach to cross-border working, we would recommend retaining the Duty to Cooperate. Alternative methods should be considered and consulted on as part of the Devolution White Paper.

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

The application of a revised standard method for establish housing requirements is already proving highly controversial, and we believe the preferred approach set out in the White Paper would create a significant risk of generating major challenge from local authorities, communities and the development industry. What is more, this would occur right at the start of the local plan making process, eroding the timetable for plan development and undermining confidence in the process.

There are a wide range of constraints that impact on the ability to accommodate housing growth. The capacity and need to overcome these constraints vary considerably across the country. The constraints include:

- The physical size of a local authority and its settlements.
- Infrastructure capacity.
- The economic and planning strategy.
- Statutory designations such as Flood Risk Zones, heritage assets, protected landscapes, geology, and habitats; and
- Green Belt.

The application of these constraints and the extent to which they impact on housing delivery requires the careful analysis of detailed evidence and locally informed planning judgements. We believe that attempting to simplify this process by establishing binding local housing requirements at a national level is fraught with difficulty.

³ The Northern Powerhouse Economic Review (NPER) <https://www.transportforthenorth.com/wp-content/uploads/Northern-Powerhouse-Independent-Economic-Review-Executive-Summary.pdf>

We have already commented on the difficulties of identifying an appropriate formula to identify unconstrained housing requirements in our response to the recent consultation 'Changes to the Current Planning System'. However even if an optimum formula can be identified, the process of moving from locally assessed housing need (unconstrained figure) to a housing requirement (constrained) is highly complex and should balance:

- the need to guarantee that total housing requirements across England will deliver at least 300,000 homes per annum, and
- the consideration of local factors which are understood by local decision-makers with crucial knowledge and experience.

This process is one of the most fundamental elements in preparing a local plan, and we believe it would be impossible to undertake this effectively through a Whitehall-run process. In reconciling constraints against assessments of local housing need, a reduction based on the proportion of the land area that is currently 'urban' or is affected by a constraint would be far too simplistic.

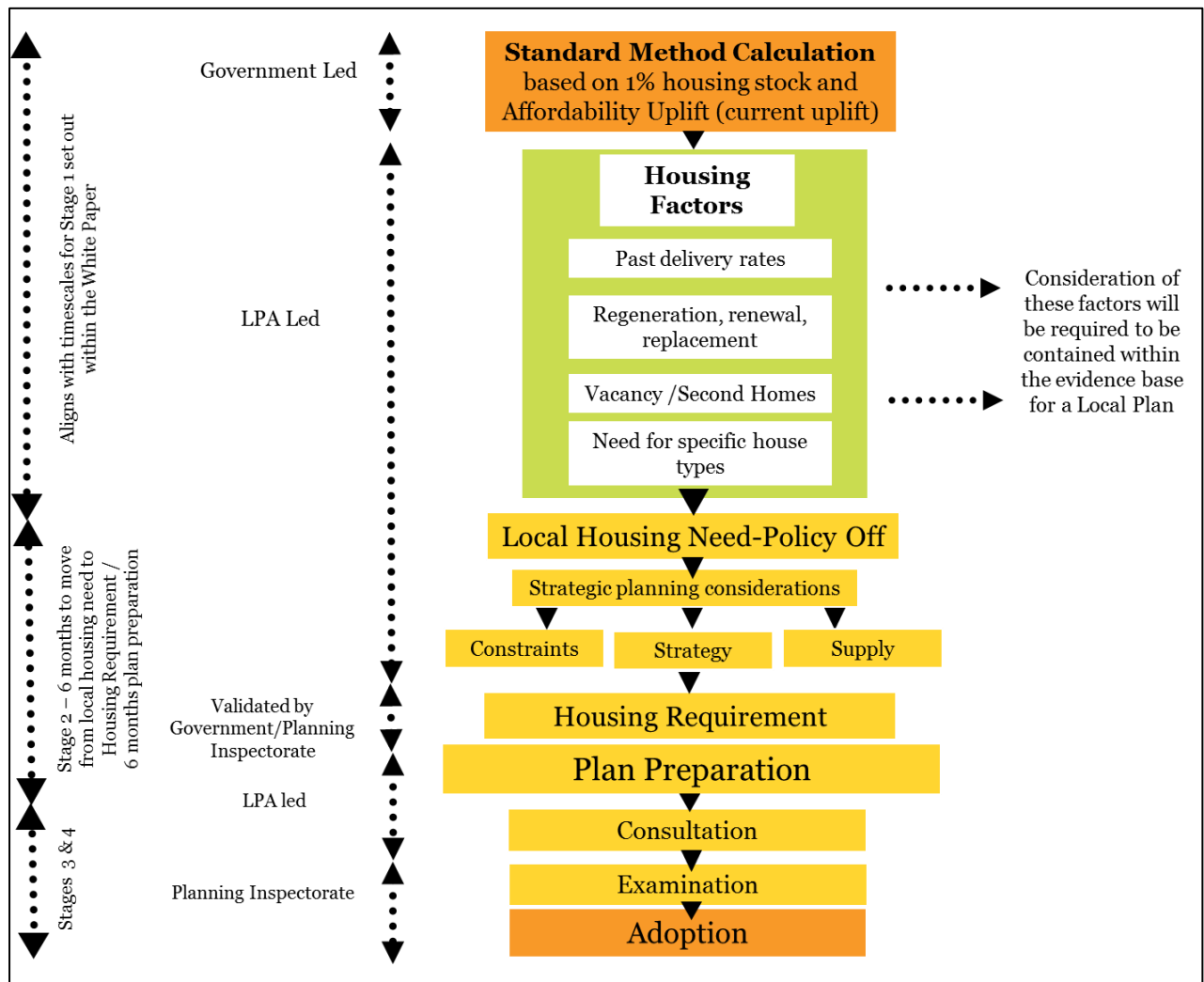
As an example, the Green Belt is regarded as a key constraint which would fall within 'protected areas' as identified in the White Paper. However, Green Belt boundaries can be revised and the NPPF sets out a clear approach through local plan preparation if exceptional circumstances can be demonstrated. So, in setting out overall housing requirements, is Green Belt to be treated as a constraint before the process of plan making commences, or a variable to be considered in consultation with the local community? Equally, a simple measure of the amount of brownfield land available for development undertaken by MHCLG, could not reflect detailed viability and site-specific development constraints.

Most local authority areas face multiple/overlapping constraints, which will need to be carefully weighted in a transparent way to balance local and national priorities. We believe that this can only be done effectively as part of the local planning process itself, overseen by the local planning authority and moderated by the planning inspectorate.

Addressing these concerns, we propose an alternative approach to identifying local housing need and subsequent housing requirements. It adapts the approach set out in the White Paper and would support delivery of at least 300,000 homes per annum.

Our proposal is set out in Figure 1 and includes a number of steps which would enable a more transparent approach to be adopted allowing local dynamics and expertise to be factored into the approach, but aligning with the timescales for local plan preparation identified in the Planning White Paper.

Figure 1 Proposed approach to identifying housing requirements



This approach would involve the following steps:

1. The starting point is set by Government through the Standard Method (formula) – based on the adjustments set out by H4N in the response to the consultation ‘Changes to the Current Planning System’⁴. This would identify an overall starting point of local housing need well above the Government’s target of at least 300,000 homes per annum.
2. Local Planning Authorities (LPAs) are required to consider a number of localised factors and provide evidence against each one which justifies whether an upwards adjustment is made to the Standard Method figure to arrive at a ‘policy-off’ local assessment of housing need. The scope of this assessment, and the evidence used, would be set out in guidance to ensure that it did not become too complex or lengthy. This would take place during stage 1 of the plan making process set out in the White Paper - the evidence gathering phase.

⁴ H4N Response to ‘Changes to the Planning System’: Standard Method - <http://www.homesforthenorth.co.uk/wp-content/uploads/2020/10/H4N-Response-to-Changes-to-the-Planning-System-Standard-Method.pdf>

3. The LPA is then expected to apply a series of planning considerations including the impact of constraints and their local economic, social and/or environmental strategies together with an analysis of current supply to arrive at an identified housing requirement. This may be a number above or below the local housing need identified by the Standard Method. This takes place during the early months of stage 2 of the process.
4. The housing requirement is then subject to an examination enabling engagement from the local community and development community before being validated by the Government to ensure that the national total of 300,000 homes per annum is achievable.
5. The Council then continues to progress with the spatial and development management elements of the Plan including engagement followed by examination of the Local Plan and finally adoption.

This approach aligns with Stages 1 and 2 of the Plan preparation process set out within the White Paper, with Stage 2 split into two six months periods; the first six months would result in the LPA moving from the local housing need 'policy off' figure to the housing requirement (to be signed off by Government/Planning Inspectorate) and the second six months focused on plan preparation.

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?

Affordability and the extent of existing urban areas are an appropriate starting point to understand the quantity of development which can be accommodated but should not be the only factors considered.

Several other factors are particularly relevant to local authorities in the North and should be considered in the revised process described in our answer to question 8 (a). These include:

- Providing a level of housing which meets local jobs growth aspirations;
- Diversifying the housing stock to ensure that there is an appropriate mix of tenures and sizes whilst raising the overall standard of quality;
- Responding to the spatial implications of changing economic patterns; and
- Providing a suitable mix of new homes to attract and retain people to live and work in the North.

The focus on urban areas is intended to target growth in places that can absorb the level of housing proposed. However, this is far too basic to be used as a measurement in isolation. Many urban areas are heavily constrained with issues including the physical scale of the authority areas and the presence of Green Belts. The presence of constraints creates a risk that new homes would be delivered in the wrong area, away from where they are most needed. A simplistic approach to the consideration of constraints could also hamper the Government in achieving its wider objectives, including 'levelling-up' growth or enabling the supply of 300,000 new homes per annum, identified as the target by the mid-2020s.

Basing such an important decision on such basic factors alone will inevitably lead to unintended consequences and anomalies and prevents the incorporation of essential local evidence and planning strategies.

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

We have long said that housing should be considered as a core part of infrastructure. This view is supported in the UK2070 Commission report, Make No Little Plans⁵.

Housing for too long has been portrayed as being a consequence - rather than a driver - of economic growth in a locality. Where large scale settlements are proposed, we do agree that housing should be able to be brought forward under a similar regime to that set out in the question. The National Infrastructure Commission's involvement in the Oxford Cambridge Growth Arc from the outset meant that in practice, many of the hurdles typically to be experienced within a scheme of this scale were managed effectively. However, we do have concerns that national approaches to investment and appraisal tend to result in the North losing out. Research⁶ we have undertaken into the HM Treasury Green Book has shown that:

- Investment decisions tend to be dominated by the increase in land value driven by a development. They do not give enough emphasis on other costs and benefits, such as climate change or quality of life.
- The economic case for investment decisions should be informed by forward looking land value assumptions, instead of the backward-looking approach currently recommended in the guidance. This perpetuates a low value, low growth view of the North.

To address these inherent problems around spatial investment/appraisal, we would argue that a Northern Infrastructure Commission should be established to oversee this. This should ensure clear alignment with the Northern Powerhouse/Levelling-Up policy priorities.

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

We agree with the need to identify a clear timescale for the development of each local plan 'at pace' and welcomes the introduction of a statutory timescale.

Overall housing requirements must be established in the early stages of the local plan development process (see 8a/b for commentary on the method used) to ensure that the time spent in establishing a requirement does not erode the time available for developing the plan itself. If this remains in contention throughout the development of the plan, then the risk of having to revisit fundamental decisions at the examination stage would be unacceptably high, potentially adding significant time or leading to poor, undemocratic decisions being imposed.

Given that the overall 'Planning for the Future' proposals mean that public consultation at the planning application stage will be significantly diminished, a six week time period for formal public consultation on the draft plan is too short, falling well below the time Government normally allows for consultation over relatively simple policy changes, in accordance with Cabinet Office guidance. This should be extended to a 12-week period, to ensure proper representations can be made, providing time for consultees to consider detailed proposals, take appropriate advice and examine any evidence presented.

⁵ UK2070 Commission report, Make No Little Plans - <http://uk2070.org.uk/wp-content/uploads/2020/02/UK2070-FINAL-REPORT.pdf>

⁶ A Cebr Report for Homes for the North, Levelling-Up the Green Book Stage 1 - <http://www.homesforthenorth.co.uk/wp-content/uploads/2020/07/H4N-Levelling-up-the-Green-Book-Stage-1-Full-report.pdf>

Another alternative would be for the Government to consider introducing a staged approach to public consultation, with elements of the plan (particularly where there are few dependencies) subject to public consultation throughout the plan development process. This could complement to more iterative approach to examination set out in our answer to Q7a.

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

We do not support the replacement of s106/CIL with a consolidated Infrastructure Levy charged as a fixed proportion of gross development value (GDV).

The use of s106 agreements to secure affordable housing provision through the planning system has several significant advantages:

- It has proved itself highly effective in extracting value from development, with the value extracted for affordable housing through planning obligations more than doubling in the period from 2005/6 to 2008/19 (MHCLG, 2020⁷).
- It cannot be used in conjunction with AHP grant, ensuring that maximum value is extracted from development.
- It enables the maximisation of on-site delivery and is an effective way of ensuring that developments incorporate a mix of dwelling type and tenures which can help ensure higher market absorption rates.
- It helps ensure that affordable housing and essential infrastructure is delivered on a site-by-site basis, by not allowing local authorities to divert resources into other priorities – ensuring that the planning system delivers development that is acceptable to the local communities hosting it.
- It is cognisant of local affordable housing requirements and facilitates negotiation of the right typology and tenure of homes, suited to local markets and housing needs.
- It provides much needed affordable housing and allows developers to secure, pre-sell and deliver new homes to support their business plans.
- It is well-understood, with learning captured over many years of delivery, particularly around local connection, and mortgagee protection. This learning and best practice must be protected.

The current system is certainly not perfect and there is anecdotal evidence of delays resulting from protracted negotiations. However it is not clear that there is a systemic problem, or whether some of the alleged failures are a product of the complexities of delivering housing in different and changing markets which would exist under any system, or indeed a product of inconsistent resourcing and administration by local authorities.

We do not believe that the case has been made to replace the current system, particularly during a period of significant market uncertainty. Rather we would support a comprehensive review of s106 delivery to improve the system and associated processes. This should include a consideration of local authority resourcing, developer behaviours and the benefits of standardising elements of the process.

If the Government is minded to replace the current s106 and CIL systems with a new Infrastructure Levy, then we propose the following:

⁷ MHCLG, Section 106 planning obligations and the Community Infrastructure Levy in England, 2018 to 2019: report of study - <https://www.gov.uk/government/publications/section-106-planning-obligations-and-the-community-infrastructure-levy-in-england-2018-to-2019-report-of-study>

- A comprehensive national pilot is undertaken prior to its introduction, testing the effectiveness of a single Infrastructure Levy, against improvements to the current system. This would need to take place over several local authorities covering different market conditions. Whilst a properly evaluated pilot would inevitably take time, the cost of making the wrong policy choice would be substantial, particularly given the significant benefits of the current system.
- Local delivery of affordable housing through the planning system should be protected by requiring LAs to set affordable housing levels in local plans and within zoning proposals for locations/sites (see our answer to Q6). This would provide the local context, requirements, and benchmarks for minimum delivery of affordable housing within local development management policies, ensuring resources generated through the levy are appropriately directed.
- Income generated through the levy (or potentially generated) is considered by Homes England in allocating its own funds to support housing infrastructure and affordable housing. The funding available to support housing provision should be considered holistically, with cash funding directed by Homes England to ensure national objectives (such as levelling-up) and local plan targets can be achieved.
- An alternative to gross development value is considered in the calculation of the Levy to protect delivery on sites where there has been investment in infrastructure to enhance GDV and secure viability. This is likely to be required in lower value areas where cash investment may be required to enable a development to be viable in the first place, and where the subsequent application of the Levy would, in effect, increase the level of subsidy required – a circular appraisal scenario.
- 100% affordable housing sites should be exempt from the Levy, and in the case of mixed-tenure sites, the value generated by any grant funded affordable homes, discounted from the calculation.

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

If applied, we believe the Infrastructure Levy should be set locally, provided that a mechanism is established to ensure that there is consistency of calculation and application across local authorities, including a process for review. It should be a mandatory requirement for local authorities to set an Infrastructure Levy (subject to threshold requirements), including for small sites of fewer than 40 homes.

A nationally set single rate/thresholds, or even nationally set area-specific rates, will not recognise the variations in land value and GDV across different locations and housing markets. It is unlikely to optimise the value that can be extracted from land in different circumstances, with a danger of extracting too little in some areas, and threatening scheme viability in others. This approach could have a significant detrimental effect on the level of affordable housing delivery, including First Homes, particularly in the North where land values and GDV are by and large lower than in the South.

Q22. (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?

If introduced the Levy must seek to capture additional value to support greater investment. This should be the central justification for introducing such a significant change in this time of huge uncertainty, and if credible evidence cannot demonstrate that this will be the case (for example obtained through an evaluated pilot) then the Government should not proceed with

the introduction of the Levy. As it stands, we have not seen evidence that this key objective can be achieved, especially if the Levy is centrally set.

Our sense is that the current system (s106/CIL) has been increasingly effective in capturing value (as shown by MHCLG's own research⁸) and that we may be reaching a point of saturation where there is little additional value to extract without effecting scheme viability. We believe that reforms to optimise the current system is a better strategy for addressing weaknesses that have been identified around timing and complexity.

Q23. Do you agree that the scope of the reformed Infrastructure Levy should capture changes of use through permitted development rights?

Yes, we agree with this approach. Development through permitted development rights should not be put at an advantage over higher quality new provision.

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

Yes, we agree that the overall aim should be to secure significantly higher amounts of affordable housing, both through the planning system and through public subsidy where this is not sufficient. Recent National Housing Federation research⁹ found the true number of people in need of social housing in England is now 3.8m. This equates to 1.6m households – 500,000 more than recorded on official waiting lists.

Many local authorities continue to struggle to deliver desired levels of affordable housing through the planning system and so current levels of provision are an inadequate benchmark to reflect real need. This should be established as part of the local plan making process as described in our answer to Q6.

We are concerned that there is insufficient evidence to demonstrate that proposals to introduce an Infrastructure Levy will achieve this aim, and that there is a real risk that it could reduce affordable housing provision, including First Homes, particularly in locations of lower GDV.

Q24. (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?

If the Infrastructure Levy is adopted, we believe the "in-kind" payment approach represents the best way of securing appropriate on-site affordable housing, in accordance with the requirements of the local plan. This would be closer to existing arrangements under s106 agreements, a system which has proved itself to be increasingly effective, whilst retaining some flexibility to support off-site provision, provided that funding generated for off-site affordable housing from the levy is ring-fenced for this purpose.

⁸ MHCLG, Section 106 planning obligations and the Community Infrastructure Levy in England, 2018 to 2019: report of study - <https://www.gov.uk/government/publications/section-106-planning-obligations-and-the-community-infrastructure-levy-in-england-2018-to-2019-report-of-study>

⁹ National Housing Federation, Annual People in Housing Need Report - <https://www.housing.org.uk/globalassets/files/report-people-in-housing-need-final.pdf>

We welcome proposals to ensure that affordable homes are delivered to the highest standards. The “in-kind” proposal would support this principle, ensuring that design, specification, and plots are agreed at an early pre-start stage. The “right to purchase” proposal does not appear to support the principle of maximising quality, as identification of the new home plots would not be agreed at an early stage, which in some circumstances would provide the developer with the opportunity to identify the new homes that they are struggling to sell as affordable homes.

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

In these circumstances, we believe that the Government should design the policy to protect the local authority from overpayment risk, so that it can be sure that all the dwellings identified as ‘in kind’ affordable housing are delivered, notwithstanding market changes, with the developer taking the risk and factoring this into their appraisal. In reality, developers routinely seek to deliver additional affordable housing in the event of market downturn, seeking to sell or pre-sell additional homes to providers in order to support their cashflows and business plans, an approach which is normally supported by local planning authorities. Any proposal to allow developers to reduce affordable delivery during the development of the site would add complexity, requiring continual viability testing, a process that many local authorities do not have the capacity to resource.

To ensure the appropriate sharing of risk and incentivise these types of ‘in kind’ arrangements, local authorities could be prevented from securing ‘overage’ (i.e. additional cash payments through the Levy) where an earlier ‘in kind’ proposal has been agreed and the market has improved.

To minimise risk on both sides, in the case of a phased development delivered over a considerable period ‘in kind’ provision should be agreed in phases, rather than for the whole development at the outset.

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

As stated above, we welcome proposals to ensure that affordable homes are delivered to the highest standards. The “in-kind” proposal would support this principle, ensuring that design, specification, and plots are agreed at an early pre-start stage.

Q25. Should local authorities have fewer restrictions over how they spend the Infrastructure Levy?

No, there should be a clear set of restrictions to ensure sums generated under the Infrastructure Levy are spent in ways that are consistent with the aim of making development acceptable to local communities – either through the provision of affordable homes or infrastructure.

Local authorities should not be permitted to use the Infrastructure Levy as a form of taxation for the administration of the planning system and development of new local plans. This should either be met from planning fee income (although we acknowledge this may fall), council tax/business rate income, or central Government funding, where additional burdens have been imposed.

Government should not underestimate the cost of the radical changes to the planning system it is proposing, nor under-estimate the financial challenges facing local planning

authorities. We would welcome the publication of evidence setting out estimates of the additional costs and reduced income associated with these proposals.

It is essential that in lower value areas, where Infrastructure Levy funds may be low, that these are not significantly eroded in meeting basic local authority administration expenses. Recent research published by the Northern Housing Consortium¹⁰ shows that local authority spending on planning and development in the North of England has fallen by 65% between 2010/11 and 2018/19.

We note that in proposal 22, the 'Neighbourhood Share' approach to CIL will be retained as part of the Infrastructure Levy, allocating a very significant proportion of funds generated to locally determined priorities with fewer restrictions. Given the potential scale of the Neighbourhood Share if applied to +£7bn of Levy funds (based on the total value of planning contributions estimated by MHCLG in 2018/19), the Government should publish further details on proposals for the size of the share and the method for its prioritisation, particularly in urban areas. We would welcome safeguards to ensure that this does not erode the capacity for funding affordable homes.

Q25 (a) If 'yes', should an affordable housing 'ring-fence' be developed?

If a Levy is introduced, it is crucial that an agreed proportion of the Levy is ring-fenced to protect delivery of affordable housing, based on our proposal to set required levels in Local Plans (see answer to Q6). The proportion of the Levy required to support affordable housing should be clearly identified in either local development management policies in the local plan or other formal documentation, with a clear mechanism for review to reflect market conditions.

¹⁰ Northern Housing Consortium, TIME TO LEVEL-UP: Local Authority Housing and Planning Capacity in the North of England - <https://www.northern-consortium.org.uk/wp-content/uploads/2020/02/Time-to-Level-Up-LA-Housing-and-Planning-Capacity-in-the-North.pdf>