

**NCC Response to Planning for the Future, White Paper, August 2020**  
**Consultation**

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

*The Council considers this question is primarily aimed at non-planning professionals so is not answering specifically. The planning system in England is complex with a variety of different and specialist functions. The Council is keen that reforms do not detract from the fundamental purpose of planning to ensure the most equitable distribution of land and resources in the wider interest and balance the need for growth and development with the need to protect social and environmental wellbeing.*

**2(a). Do you get involved with planning decisions in your local area? [Yes / No]**

*Yes,. As the statutory minerals and waste planning authority the Council, determinates relevant planning applications, makes minerals and waste local plans and seeks to safeguard minerals and waste facilities within its area from being sterilised by housing or other development in accordance with national policy.*

*The County Council is a statutory consultee on a range of planning and environmental matters and seeks developer contributions towards essential infrastructure and services such as highways and public transport, education, libraries and recycling facilities.*

*The Council is also a statutory consultee in respect of its Highways functions, but this does not include Public Transport. The reforms should address this anomaly from the 1990 Planning Act and add the Public Transport co-ordinating authority as a statutory consultee.*

*It notes however the opportunities of local government reform and devolution which would help further simplify the planning processes and avoid misunderstandings about who is responsible for planning decisions.*

**2(b). If no, why not? [Don't know how to / It takes too long / It's too complicated / I don't care / Other – please specify]**

N/A

**3. Our proposals will make it much easier to access plans and contribute your views to planning decisions. How would you like to find out about plans and planning proposals in the future? [Social media / Online news / Newspaper / By post / Other – please specify]**

*The Council supports greater use of new technology in principle. This would support consultation methods for planning applications, such as social media/online and newspapers. The templates for press and site notices, as set out in the Development Management Procedure Order, are very legalistic and therefore do not encourage members of the public to read them and engage in the planning process. Press notices do not generally reach a wide audience. However, we would support the continued use of site notices as an effective means of communication but would suggest that the template is updated to remove the detailed legal and jargon and the statutory requirements simplified (name of applicant, address and name of proposal, and closing date for making comments) to allow local authorities to use these notices more creatively such as use of QR codes to link site notices to the planning application*

on the Council's website. The continued use of post to send neighbour notification letters to those potentially most affected is welcomed.

*Digitising planning should make it easier to access plans and proposals for communities, but importantly, will also allow internal stakeholders from within the planning system to access information and engage in the process more proactively. For example, in two-tier authorities it is challenging for a highways authority to keep abreast of planning decisions and timetables, or indeed the downstream implications of planning decisions (for example access to S106 funding). Any change should seek to ensure that more automation or standardisation also allows greater engagement in decision making. Having access to the digital data will also make it easier to undertake related assessment and planning. For example, having data digitalised will make future map-based public transport planning easier. Information relating to planning proposals should comply with a national standard of software and referencing system.*

**4. What are your top three priorities for planning in your local area? [Building homes for young people / building homes for the homeless / Protection of green spaces / The environment, biodiversity and action on climate change / Increasing the affordability of housing / The design of new homes and places / Supporting the high street / Supporting the local economy / More or better local infrastructure / Protection of existing heritage buildings or areas / Other – please specify]**

*As a County Council, all of these priorities are considered important across Nottinghamshire. In terms of the Council's current specific planning and highways functions the Council's priorities are to plan as sustainably as possible for adequate minerals resources to support wider development and energy needs, to plan for a comprehensive network of waste management facilities to support the circular economy and to ensure safe, reliable and efficient transport infrastructure.*

*Furthermore, the County Council would like to see more emphasis on the requirement for significant infrastructure where sites aren't easily accessible and to build around existing developed and/or developable areas.*

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

*Whilst measures to streamline the plan-making process are supported in principle, the simplified categories of land or 'zones' suggested appear to be a very blunt tool that is focussed primarily on residential development. In some cases, such as transport planning, this may allow supporting public transport strategies to be more easily developed and integrated with development proposals. It is important to ensure that all necessary infrastructure is planned for when development proposals are first developed. However, it is not clear how this approach is intended to apply to other forms of development such as minerals and waste. It is not clear how such development would fit within the land categories proposed whilst also ensuring such sites, which are a critical part of delivering housing growth, are not sterilised by other development. Mineral extraction can only take place where the minerals are found and therefore proposals may need to be considered outside of this zoning criteria. Similarly, not all forms of waste development can be accommodated within urban areas. If planning is to move to a 'zonal' system, more categories may be required to address these complexities rather than a 'one-size fits all' approach.*

*Experience of zoning systems elsewhere indicates that these will need to be supported by complex layers of additional guidance and criteria rather than simplifying the system. The need to develop a range of national and local design codes, pattern books and additional*

*training and resources within local authorities will be time-consuming and costly at a time when local authorities are faced with increasing financial and staffing challenges, adding further uncertainty and delay to both plan-making and decision making.*

*It is important that consideration is given*

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

*Removing locally produced Development Management Policies within Local Plans and replacing them with a standard set of nationally produced Development Management Policies would avoid the time currently spent at examination determining whether the local policies are in accordance with national policy whilst not repeating this verbatim. However, these standard policies need to cover all types of development from residential to employment to schools to minerals etc. Appropriate policies for minerals and waste development would be needed to recognise the specific nature and impacts of these types of sites and facilities. However, the White paper currently makes no reference to these types of development. It is not clear whether these would be model policies for inclusion within Local Plans or that DM policies would effectively only be set out with the NPPF. There is a need to ensure that the use of standard policies does not remove the ability of Local Plans to respond to local circumstances.*

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

*Proposals to replace the existing legal and policy tests for Local Plans are welcomed. There is considerable overlap between Duty to Co-operate statements and Statements of Common Ground and the successive addition of further layers of documentation has greatly increased the time and resources needed to prepare a Local Plan for submission. The test of soundness are not well-understood by members of the public and are often seen as a barrier to allowing them to participate effectively.*

*A single, consolidated test of ‘sustainable development’ would be supported. This should also consider accessibility by public transport, walking and cycling as a measure of sustainable development.*

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

*The Council considers that there are strategic planning issues that cannot be delivered using a bottom-up approach. As is suggested for housing within the White Paper, there is a need for a co-ordinated, strategic approach to minerals and waste provision. Much of the delay and challenge to minerals and waste Local Plans is focused on the ‘need’ for new quarries and/or new waste management facilities. These sites are an essential part of the country’s resources and infrastructure to deliver and support new housing and other growth. Current reliance on annual local sales figures is not an effective means of forecasting future minerals requirements and the local evidence for the amounts of commercial, industrial and construction wastes produced is incomplete. A clear national demand forecast for both minerals and waste, with regional/local apportionment as under the previous Regional Plan system would enable Local*

*Plans to focus on identifying land that is suitable for development whilst minimising unavoidable environmental impacts.*

*Authorities should also be mandated to contribute to and support 'regional transport strategies' that set out the requirements for public transport infrastructure and service provision across travel to work areas. These should then form the backbone of cross boundary issues when considering plan making – i.e. they should positively contribute to the objectives of the regional transport strategy.*

*The need to co-ordinate on many other current cross boundary issues would also be avoided in part if the geography of local government was changed to create larger single units of local government which can take a broader view of areas and help plan effectively.*

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

*As set out in response to Question 7(b) the Council considers that White Paper should also address the requirement for other types of infrastructure. Sites for mineral extraction/processing and the recycling/recovery and disposal of waste are also key to delivering and supporting the desired level of housing and economic growth but are not mentioned within the White Paper.*

**8(b). Do you agree that affordability and the extent of existing urban areas are appropriate indicators of the quantity of development to be accommodated? [Yes / No / Not**

*Detailed consideration of the scale and distribution of new development should only be undertaken with consideration of infrastructure available and new infrastructure needed.*

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

*As a County Council it is difficult to comment on these proposals without further detail.*

*Further detail is needed on the permission in principle for growth areas, for example how much detail needs to be obtained/submitted for this to be granted? If housing numbers are not required at the plan-making/outline stage, this will make it difficult to plan for the appropriate level of infrastructure, such as school size and therefore the amount of land required. This could lead to delays or issues within the detailed matter application, particularly if the overall site is developed in multiple phases.*

*Any proposals for automatic outline consent, for housing, employment or mixed used sites for example, would need to demonstrate that the sites can be appropriately serviced by sustainable transport provision.*

*The County Council would suggest that part of the answer could be for there to be a requirement to have significant pre-planning discussions (which would be non-prejudicial) before the planning process. This would allow an early determination by the County Council of those plans that could be subject to a faster route. It is imperative though that in this discussion that, where necessary, planning for these applications is co-ordinated with external agencies.*

*It is difficult to see how minerals and waste development would fit within the proposal for growth, renewal and protected areas. Waste facilities may be suitable alongside industrial and employment areas but not all types of facilities will be appropriate, for example scrap-yards, aggregates recycling facilities, or landfill. Mineral extraction can only take place where the*

minerals are found and therefore proposals may need to be considered outside of this zoning criteria.

*If, for instance, important mineral reserves were located within a “protected” area this could effectively sterilise huge amounts of potential mineral extraction and proposals not given the same judgement as they currently have, such as when they are proposed within the Green Belt. If the Duty to Cooperate is to be removed, it will be important that county and district planning authorities to continue to work collaboratively to ensure that important mineral reserves are not potentially sterilised through protected zoning in district/borough council local plans. Existing national policy requirements within both the National Planning Policy Framework and the National Planning Policy for Waste to safeguard minerals resources and waste facilities from sterilisation (the agent of change principle) should be maintained. It is assumed that any detailed/ technical issues in areas where automatic outline permission is granted would be addressed through the reserved matters process.*

*Further detail is also needed on the permission in principle for growth areas, for example how much detail needs to be obtained/submitted for this to be granted? If housing numbers are not required at the plan-making/outline stage, this will make it difficult to plan for the appropriate level of infrastructure, such as school size and therefore the amount of land required. This could lead to delays or issues within the detailed matter application, particularly if the overall site is developed in multiple phases.*

*Any proposals for automatic outline consent, for housing, employment or mixed used sites for example, would need to demonstrate that the sites can be appropriately serviced by sustainable transport provision. The County Council would also propose that the focus here needs to be on the need to build around existing developable and/or developed areas and those sites that are already easily accessible.*

*A further concern is the ability of local communities to fully engage with the decision-making process. By having automatic outline permission in growth areas requires communities to engage more at the Plan making stage rather than when the actual proposals are submitted. Many people do not engage with the planning process until a planning application is submitted, when the full and final details of a proposal become clear. Our suggestion of there being a requirement for significant work being undertaken at a pre-planning stage (to be non-prejudicial) would ensure that inappropriate proposals are not put forward as part of a faster route for detailed consent.*

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

*See response to Q9(a) above*

**9(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.]**

*Local Plans should be the mechanism by which urban extensions and new settlements are planned and delivered so that this can be coordinated effectively with other related development and infrastructure. The planning of such major development needs to be embedded at the local level and fully reflect local needs and the well-being of local communities and the environment. The County Council would also promote that existing developed or developable areas are also prioritised for nationally significant infrastructure.*

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

*Whilst a faster decision-making process is desirable, it is important that speed of decision making does not sacrifice the quality or fairness of decision making. Faster decisions granted automatically or on appeal under the threat of a financial penalty could lead to a lower quality environment for communities and be seen as allowing 'development at any cost' rather than ensuring the right development in the right location. The possibility of a refund of the planning fee at appeal could incentivise applicants to pursue a greater number of appeals, further clogging up the system.*

*The White Paper envisages a large role for the digitisation of planning, whereby applications become 'machine readable' and where decisions provide an array of data for new data-rich planning registers, which can be interrogated by the development industry. This will require significant changes to software, processes and ways of working and is likely to be a long-term objective which will need national support and funding.*

*The rich complexity of land use and the UK's built and natural environment also does not readily lend itself to a binary vision whereby a development proposal is adjudged acceptable or not based on narrow parameters. The UK planning system has evolved to deal with all these complexities and to balance different and competing considerations. Whilst more certainty in the planning system is a welcome objective, planning judgement at a local level is still vital.*

*There is an aim to reduce the length and complexity of planning applications to make them more accessible and understandable. A 50-page max length for planning statements is envisaged, along with work towards standards for supporting documents. It is not clear whether Design and Access Statement would be retained. Other technical reports would still be required as necessary. Any move to standardise the format/template of supporting documents will need to ensure that such information can still be tailored and proportionate to the size/type of the development proposal, so that smaller proposals are not burdened with overly complex submissions and likewise large scale/impact developments continue to have the fullest level of information and assessment.*

*The proposals include moving towards a stricter 8, 13, or 16-week deadline (depending on the type of development) for the determination of planning applications and a lesser role for, or possible removal of, time extensions as may currently be agreed with applicants. There may be financial penalties for not meeting the strict deadlines such as a refund of part or all the planning fee or even a deemed planning consent for important public sector developments such as schools and infrastructure. This approach would appear to go against the statutory requirement placed on planning authorities to work positively and proactively with applicants to overcome and resolve issues through dialogue and cooperation and could potentially lead to more refusals, resubmissions and planning appeals. Furthermore, this approach does not acknowledge that a time extension is an agreement between the planning authority and the applicant and is therefore something that the applicant is willing to agree to in order to address concerns and reach a positive determination on a planning application. For example, where requests for further information have been made, such as for additional wildlife surveys, which are time/seasonally dependent, time extensions provide an appropriate and positive solution, rather than refusing planning permission. If the refund of planning fees was seriously being considered there should be no cliff edge which would perversely incentivise applicants to delay their submission of further information in order to get all their planning fee back. The proposal for certain deemed planning permissions would mean that significant developments would go ahead without any planning conditions or controls guiding them. This would not be acceptable*

*to local communities -for example school developments often require travel plans and community use agreements to be secured as part of their approval.*

*The potential for more refusals of planning permission solely to meet a stricter determination timeframe (and avoid the penalty) could also perversely lead to more appeals rather than resubmissions or 'free gos' to the planning authority. This would be more so if the proposal for an automatic rebate of planning fees upon a successful planning appeal is brought forward. The white paper is seeking to reduce planning by appeal, not increase it. The option of a 'free go' must not be undercut by making appeals more attractive.*

*A new and less legalistic template for planning notices would be very welcome and is badly needed to replace those set out within the Development Management Procedure Order which planning authorities are currently required to follow. More flexibility should also be provided in the legislation to allow further improvements to be made over time, particularly as digital ways of engagement emerge (see response to Q3 above).*

*Scope needs to be retained for manual validation of applications. This cannot be always automated as it involves a certain checking of the standard of a submission, for example whether the plans are clear enough or have been properly formatted and presented. The validation procedure, including the ability to set Local lists, should remain within the power of the determining LPA so long as they are subject to regular review as is the case at present, otherwise substandard applications would have to be accepted, likely leading to substandard decision making.*

*In any reformed planning obligations framework, scope needs to be retained for certain legal agreements to secure off site measures – for example off site biodiversity compensatory works and long-term management- unless the scope and legal power to apply planning conditions is reviewed. It would make practical sense, and improve the speed of decision making, to enable more to be achieved through conditions in order to reduce the need for certain legal agreements. Model planning conditions would also be helpful but should not be mandatory.*

*Many development proposals impact on public access and rights of way. There is a statutory process in place for dealing with the creation, diversion and extinguishment of public rights of way. There is no mention of this within the consultation. It takes at least six months (a lot longer if objected to) for a change to a Public Right of Way using either legislation under the Town and Country Planning Act or the Highways Act. Therefore any 'streamlining' needs to take this in to account.*

*Again, the County Council would re-iterate here the need for significant pre-planning discussions (to be non-prejudicial) to support any move towards faster decision making.*

**11. Do you agree with our proposals for accessible, web-based Local Plans? [Yes / No / Not sure. Please provide supporting statement.]**

*Web based plans could help to make plans more accessible to all and improve the integration between different disciplines. For example, a standardised and open architecture approach to plans and supporting data would allow for lower costs and greater transparency in the testing of public transport options.*

*However, this will require additional software development and skills. Local Authorities will need to be resourced adequately and allowed sufficient time to develop such plans. Many authorities have already invested in third party or in-house software systems for online publishing and consultation. This investment will be lost and there may be contractual*

penalties if the intention is to move to an entirely new standard software system. This will place additional pressure on already stretched local authority budgets.

**12. Do you agree with our proposals for a 30-month statutory timescale for the production of Local Plans? [Yes / No / Not sure. Please provide supporting statement.]**

*There should be a realistic timescale to introduce these proposals. The proposed changes will require local authorities to become familiar with a whole new system of development principles and regulations (not yet in place), ensure adequate parameters for growth areas to be given permission in principle, develop design codes for different areas of the plan area, adopt and implement new software, and increase community engagement. Many authorities are already part way through the preparation of existing Local Plans. There needs to be a balance between speed and quality in implementing these proposals.*

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

*In some respects, Neighbourhood Plans can provide a greater level of public involvement, but this could potentially duplicate public consultation stages as residents may not see the need to participate in a wider Local Plan process or vice-versa. This could dilute the aim of having a streamlined planning system as proposals would be contained in a series of separate documents, rather than a single, comprehensive Local Plan.*

*If Neighbourhood Plans are retained, guidance for these should include a requirement for an appraisal of public transport issues and priorities for the plan area, including priorities. Transport for New Homes (<https://www.transportfornewhomes.org.uk/the-project/garden-villages-and-garden-towns/>) gives advice that could be offered as part of Neighbourhood Plan guidance.*

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

*The neighbourhood process could be used to ensure that developments reflect the local character and vernacular.*

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

*The Town and Country Planning Act 1990 provides for a standard 3 years to commence a development granted full planning permission. This is usually repeated as a planning condition to a grant of permission. There is no similar requirement to complete developments within a certain time. Further in reality under section 56 a 'material operation' needed to commence a development is very minimal and which then creates a planning permission in perpetuity unless it is superseded or taken away. Consideration could be given to amending the definition of material commencement to encourage a genuine start to development, not just technical commencement to retain a planning permission. This would also help provide more certainty in the planning system.*

*By comparison in minerals planning there is a requirement to complete minerals extraction and restore land at the 'earliest opportunity' and usually by a given date under a planning condition. Whilst it has been a common practice for developers to apply for extensions in time to their extraction and restoration requirements, this does at least allow a review process through for example a section 73 planning application, along with the input of public opinion on such further delays to completing mineral extraction. It is also standard practice for minerals*



*planning authorities to seek to secure earlier completions/restorations if possible, through an 'early cessation' planning condition or through discontinuance orders.*

*In terms of wider infrastructure provision for other types of development such as large housing sites, a stronger emphasis on the build out process of developments would help to identify the expected impact on facilities. Unlocking housing developments more quickly, and supporting this with a faster house building programme, should rely on less 'pump priming' required of public transport services during the early stages of development, and allow commercial services to develop more quickly. It would also help to ensure packages of developments by different housebuilders come forward in a consistent way, such that bus services can be brought in to development more quickly. Running bus services on unadopted roads, or when development traffic is high, is a major barrier, so a reduction in the buildout time would help this issue.*

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

*In the early stages of master-planning there are often good design principles with strong priority for public transport but that this can get watered down through the development planning process as sites get broken up and sold off to different developers and housebuilders. As per much of the white paper this proposal appears focussed on housing provision and does not consider the merits of improving standards within the vast array of non-residential development. A broader vision is required if the challenge of climate change is to be properly tackled. As well as appearance, site layout, access to infrastructure, site levels and heights of building are an important part of design. The proximity of waste facilities including recycling facilities and waste water treatment plants are often overlooked by developers.*

**16. Sustainability is at the heart of our proposals. What is your priority for sustainability in your area? [Less reliance on cars / More green and open spaces / Energy efficiency of new buildings / More trees / Other – please specify]**

*All of these aspects are important for sustainability. To meet climate change targets, it is imperative that we see a shift away from single-occupancy car journeys to the use of higher-capacity public transport, cycling and walking. In addition, it is important that the number of cars, unlocked through new development, are minimised on an already congested road network, prioritising public transport over the car to encourage modal shift in existing developments as well as new ones.*

*Therefore, high quality, clean, affordable, reliable frequent and integrated public transport, connecting people between where they live and the services they need, is essential to unlock sustainable development. The focus should be on creating places where people can use all varieties of public transport by making them the most attractive and affordable option, thus paying more attention to outcomes (more passengers) than outputs (ticking a box to state the number of houses within a distance of a bus stop). It is important to look at sustainability on an area-wide basis rather than on an individual development basis, providing an area-wide integrated transport system which is fit for purpose for all existing and future passengers rather than providing public transport to a development in isolation. The planning process should also include an emphasis on bringing forward innovation in sustainability as part of new development, for example showcasing the use of zero emission vehicles, autonomous vehicles, bus gates giving bus priority and intelligent solutions including area-wide integrated smartcard and Account-Based Ticketing through Travel Plans.*

The County Council would also stress that the proposals promote and maximise the development of existing Brownfield and former industrial sites to minimise the impact on our environment. In particular, the County Council would seek to, where possible enhance green and open spaces and/or have complimentary uses.

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

*The use of local design guides must make allowance for commercial developments in the waste management sector as well as general industry. By their nature these developments/uses are functional and cannot always be beautiful. Consequently, they may not fit within standardised codes, but can still be well designed so that they protect the environment and are not detrimental to local amenity. These functional developments and uses of land are often overlooked but provide important local infrastructure and services, including sewage treatment works, scrap metal yards, aggregate processing and other development which will not readily fit standard parameters or design codes.*

*Design guides and codes should cover public transport infrastructure (bus stops and interchanges) as this sets a critical vision for the quality of public transport provision in a local area. The Manual for Streets Section 6.5 'Public transport' states '6.5.12 Bus stops should be high-quality places that are safe and comfortable to use' but this section doesn't refer to any guidance about what high quality means.*

*It should also cover design standards for accessing bus stops for all people, including those with mobility impairments, and should consider electric charging infrastructure for buses and mass transit. The design guides should favour public transport, walking and cycling over cars, for instance, through car park availability and management, and meeting 'desire lines for travel' for walking, cycling and public transport over those for the private car.*

**18. Do you agree that we should establish a new body to support design coding and building better places, and that each authority should have a chief officer for design and place-making? [Yes / No / Not sure. Please provide supporting statement.]**

*As stated previously this will need to recognise that there are more functional forms of commercial development including waste management facilities. Any new national body should recognise that existing design codes have already been developed by some professional sectors i.e.*

*'Bus Services for New Residential Developments: General Highway and Urban Design Advice to applicants and Highways Authorities' – Stagecoach*

*'Buses in Urban Developments' guidance - CIHT <https://www.ciht.org.uk/knowledge-resource-centre/resources/streets-and-transport-in-the-urban-environment/>*

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

*Whilst the need to encourage good design is acknowledged, development should not be judged on appearance alone as development needs to be in an appropriate location, fit with other surrounding land-uses, and be sustainable.*

**EFFECTIVE STEWARDSHIP AND ENHANCEMENT OF OUR NATURAL AND HISTORIC ENVIRONMENT**

*Rights of Way, which are public highways, and other access infrastructure are essential to the local community for both access to essential services and for recreation, and the benefits associated with walking, cycling and riding are well known, particularly as experienced during the Covid-19 pandemic. The public rights of way network play a vital role in supporting the community particularly with reference to health and well-being. There is a passing remark in paragraph 3.24 of the consultation "... the ability to maximise walking, cycling and public transport opportunities will be an important consideration". We would wish to see this strengthened and emphasised in future planning legislation, guidance and LPA's Local Plans. We would ask that LPAs and developers refer to Highway Authorities Rights of Way Improvement Plans and any local Guidance notes which HA's produce with regards to Planning and Public Rights of Way.*

**Proposal 15** - *The proposal to legislate for mandatory net gains for biodiversity as a condition of most new development is welcomed.*

**Proposal 16** - *As a minerals and waste planning authority, the council deals with a large proportion of EIA proposals. The requirements of the current EIA Regulations are complex, and the system has led to many legal challenges nationally. Consultation requirements are rigid (particularly for further information) and consequently it is unusual to determine these applications within the 16-week prescribed period. There is scope to improve the rules, but this must not be to the detriment of the environment or the quality of decision making.*

**Proposal 17** – *The proposal to build upon the NPPF to protect heritage assets is welcomed.*

## **Pillar Three- Planning for Infrastructure**

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

*Recently it has becoming increasing important to secure contributions from developments in order to deliver the required infrastructure. As the County Council, infrastructure which is key to deliver alongside new development includes public transport services and infrastructure, highway access, education facilities, waste management facilities and library provision.*

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

*The County Council would welcome some form of reform as the current Section 106 process is often lengthy and resource intensive as rigorous negotiations are needed to secure funding. The introduction of CIL has not led to the level of investment in infrastructure as envisaged when it was introduced.*

*Having a fixed proportion of value could be a way forward, however one concern with the proposed new Infrastructure Levy is that there seems to be little connection between the infrastructure needed and the money to be secured. For example, instead of looking at what infrastructure is needed within a local area and then securing sufficient funding to enable its development, this Levy seeks to raise money to contribute into a larger pot across the Local Authority without considering what infrastructure is needed.*

*A single levy could provide more certainty and clarity; however, Section 106 allows the flexibility for sites to deliver something different or more unique. The ability to secure off-site improvement/mitigation should be retained as currently S106 agreements provide the only legal mechanism to achieve this.*

*Setting a threshold could also result in securing less money for infrastructure should there be an economic down turn as the IL will be calculated at the point of occupation. This could lead to a deficit in funding as the infrastructure will still be required for the development regardless of the value.*

*Whilst more flexibility would be welcomed in light of the restrictions Section 106 can bring, further thought and detail is needed to understand who, and how, it is decided what infrastructure is needed, particularly within two tier authorities. There is a need for certainty as some services e.g. waste management and school places are often seen as a lower priority by the lower-tier authorities.*

*In respect of transport services and highways infrastructure, any new system will need to take account of different levels of funding to support public transport for different development types and locations of development.*

*Highway mitigation costs would appear to be intended to be met by the new Infrastructure Levy. This is likely to require a much more detailed Transport Study preparing in support of a Local Plan if a planning application is effectively only intended to deal with what are currently considered as reserved matters and if there is no requirement to submit a Transport Assessment or opportunity to secure conditions requiring off-site works. The need for S278 agreements would disappear as would the associated fees and ability to require commuted sums for future maintenance. The Highway Authority would then appear to be taking all the risk apart from actual scheme cost if this is forthcoming and presumably to be identified in a local plan transport study.*

*If the infrastructure Levy is set as a proportion of the development value, or zero where there is viability issues, it doesn't appear possible to take account of the actual cost of specific highway infrastructure, any other infrastructure requirements, or whether mitigation is feasible in a given location. The delivery of schemes would also appear dependent on LPA priorities. Would the development values be higher in the south and therefore advantage southern authorities in terms the size of the levy?*

*It is common practice for travel plan provisions and travel plans to appear as obligations in Section 106 agreements such that they are binding on the owner and subsequent owners of the land subject to the S106. The Council also uses S106 as a means to secure the long-term maintenance of private streets where the developer would not wish the street to be adopted or the design of the street is incapable of being adopted. Neither could be replaced by the proposed infrastructure levy. If S106 is to be abolished, there will need to be some alternative mechanism to secure measures that are not related to the funding of the provision of infrastructure.*

**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]**

*Setting a National single rate could be problematic and hinder development coming forward within certain areas of the Country where land values are lower and authorities have previously*

*not applied CIL in order to attract new development into the area. Area specific rates therefore would be preferable but within two tier authorities, further detail and thought is needed on how this rate would be determined so it can deliver both district/borough infrastructure and County infrastructure. Unitary authorities do not have this challenge.*

*There should be flexibility to allow for local levels to be set to reflect local conditions. For example, developments in poorly accessible locations should only be permitted if more significant contributions are provided to allow new public transport infrastructure to be provided over a reasonable timescale. This in turn will encourage developments to come forward in more accessible places. This is consistent with previous developer guidelines in Nottinghamshire, that set different tariffs based on accessibility profiles. The Levy does provide greater certainty of funding (for both the local authority and developer) which is welcomed.*

*Consideration should be given to a national PTAL style standard as used by TfL (<http://content.tfl.gov.uk/connectivity-assessment-guide.pdf>) to determine contributions necessary to support public transport provision as part of the Infrastructure Levy.*

**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.]**

*Overall funding can often be short of what is required to deliver infrastructure therefore capturing a higher value to secure funding would be preferable.*

*It should create more value to reflect the short fall in infrastructure funding for public transport, and the land value uplift which is realised when development occurs in places where new public transport networks are introduced (such as around new rail stations, tram stops or bus interchanges). Consideration should be given to what the ultimate public transport network should look like in the future to accommodate future demand and encourage modal shift, and work backwards to determine what this would mean for the Levy.*

*Where infrastructure investment takes place that stimulates development, then a proportion of the increase in land values should be leveraged as part of the Levy using a nationally agreed approach. For example: UCL Property Value Uplift Calculator: <http://rserver.econ.ucl.ac.uk/LVU1/shiny/>*

**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.]**

*If funding is not to be applied until the point of occupation, then some form of forward funding will be required to ensure infrastructure delivery can be coordinated with the build out of new developments. This would allow people who initially occupy a new development site to have use of the new services and infrastructure. For example, having an established, viable public transport option available when people occupy the site is key to establish sustainable movements early on.*

*However, safeguards will be required to protect local authorities from the risk that the development does not proceed but the authority has committed the borrowing and/or developed some of the required early infrastructure.*

**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.]**

*It is reasonable to apply the levy to capture change of use through permitted development, particularly as the permitted development scope is being widened as part of other reforms to the planning system. This will enable impacts and pressures such developments bring to be captured and mitigated.*

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

*The County Council would raise concerns that if developers are able to offer in kind payments via affordable homes to reduce the overall Infrastructure Levy contribution, this would mean that essential funding for other services and provisions, such as education, waste management facilities, public transport services, may not be received and so create a potential funding gap for required infrastructure. This could create a tension between the need for affordable homes and for other infrastructure, also creating potential tension within two-tier authorities whereby a decision will have to be made on what is the priority. Further detail on these proposals is required to fully consider how this would work in practice.*

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

*Fewer restrictions on how money is to be spent by Local Authorities would allow greater flexibility. Currently to secure a contribution, specific details are required of the project that the money is sought for. This can cause difficulties when seeking to improve recycling centre provision, for example, as money could be used either to extend existing facilities or invest in a new larger site. However, to lift restrictions completely- to the point whereby money could be used to reduce Council Tax as suggested within the paper- would dilute the importance and role of the Infrastructure Levy as it would become a pot of money for other purposes instead of money to improve and provide much needed infrastructure for local communities. There would therefore need to be some proportion ring fenced to deliver infrastructure as well as some co-ordination between authorities to ensure any infrastructure schemes are sustainable.*

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

*We would stress the need for any changes to take account of people with protected characteristics to have equal and fair access to public transport services in their local area. This includes access to public transport stops, level access for public transport boarding and alighting, and appropriate infrastructure that is accessible for all.*

**Additional Comments**

The White Paper includes a number of other proposals which do not have specific consultation questions attached to them. Given the implications of these proposals the Council considers it is important to respond on these matters as well as the specific questions posed.

### **Funding the new planning system (Proposal 23)**

*It is essential that any proposal to reform funding of the planning system which relies upon the beneficiaries of planning gain needs to be carefully designed and monitored to ensure that the Council's statutory duty can be maintained. We would support the plan to retain nationally set planning fees but there is the need to undertake a review of the fee regime to ensure some underfunded applications, such as S73 applications, cover all the costs involved in their determination.*

*Pre-application charging (page 71) should include statutory consultees whether approached directly or via the LPA.*

### **Strengthening enforcement powers and sanctions (Proposal 24)**

*We would support any steps to strengthen enforcement powers or, more importantly, simplify them. However, it is unclear what new powers are being considered in terms of 'intentional' unauthorised development and, if in place, how this would be proved and what the defence provisions would be.*

*Higher fines would be welcomed to act as a deterrent. Proceeds of Crime Act powers exist in order to recover monies gained from unauthorised uses of land, but in terms of breach of condition (non-use related) and operational development the scope is much more reduced.*