

Introduction

A new vision for England's planning system

Kent County Council (KCC) has recently responded to your Department's consultation on the revised 'Changes to the current planning system' consultation and recognises that the measures within both consultations share a common objective to accelerate housing delivery and deliver on the Government's commitment to deliver 300,000 houses a year.

This commitment must be delivered in a way that genuinely responds to local needs, so that residents, communities and businesses will all share the benefits of growth. The County Council agrees that the current systems for spatial planning and infrastructure funding have limitations and need reform, but it has strong concerns that some of the proposed White Paper reforms would be severely damaging to local communities, undermine local trust in the planning process and would not deliver sustainable growth. The County Council draws attention to three key themes that feature heavily in its response – 1) Taking an Infrastructure First approach to growth; 2) Working to a Net Zero future and 3) Empowering local communities – all vital components to get right in any major overhaul of the planning system.

Firstly, across the County, we already have ambitious plans for significant additional housing and commercial growth. As part of this, unlocking infrastructure is critical to achieving sustainable growth and creating new communities. The County Council promotes an "Infrastructure First" approach to development, to ensure that all infrastructure is phased, funded and delivered at the right time. Whilst the County Council supports the White Paper's commitment to deliver more infrastructure by capturing a greater share of the uplift in land value, it is critical that a new Infrastructure Levy mechanism must not be introduced until it has been fully demonstrated that it will deliver and equip strategic infrastructure providers with a fund that can be used to deliver infrastructure projects when they are needed, preventing the need for unsustainable increases in public borrowing and the deferment of critical projects. In addition, there must be a mechanism to enable proper strategic planning across wider geographies than district boundaries and the County Council is disappointed that the White Paper puts forward no alternative to replace the duty to cooperate.

Secondly, the County Council supports the Government's ambition to facilitate ambitious improvements in energy efficiency standards for buildings to help deliver its net-zero commitment by 2050. A net-zero carbon standard for new homes is essential and must be delivered without the need for later expensive retro-fitting. Responding to the climate emergency, eliminating poor air quality and supporting clean and sustainable economic growth must be embedded in all decisions for planning reform and will require a new level of standard setting and ambition that will need to be captured in planning for growth.

Lastly, but crucially - well-planned, sustainable and future-proofed growth cannot be delivered without the full involvement of local communities. The County Council is supportive of the government's ambitions to harness digital technology to move to a modernised, open data approach and to give communities a more meaningful voice in the future of their area. However, it is very concerned that the White Paper reforms proposed would actually have quite the opposite effect – by limiting the opportunities for residents to get involved, removing their role in influencing and shaping the detail of schemes and significantly reducing the important role of local councillors in representing their constituents, particularly at planning committees. The White Paper reforms risk threatening local democracy, with communities

losing their local voice to influence development. By front-loading community involvement to the Local Plan stage (and without clarity even on what this would look like), the reforms fail to recognise the important and positive roles that local community groups, parish and district councils play in shaping and influencing growth.

The County Council is keen to work with your department to ensure that any bold reforms equip local authorities and local communities with the necessary tools and mechanisms to support and accelerate balanced and sustainable growth.

Pillar One – Planning for development

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

Delivers
Balanced
Placemaking

2. Do you get involved with planning decisions in your local area?

[Yes / No]

The County Council is actively involved in planning across Kent as part of its statutory and non-statutory functions. It has a direct role in plan making for minerals and waste and a development management role for county council applications and waste and minerals developments. It is also a statutory consultee in respect of district Local Plans and development management processes across Kent and in ensuring the critical County Council infrastructure and services are delivered as part of growth.

As Local Highway Authority, the County Council is responsible for the maintenance of the local highway network, including Public Rights of Way, and seeks to ensure that planning decisions take account of the transport impact and mitigate accordingly.

As the Minerals and Waste Planning Authority and Waste Management Authority, KCC is responsible for strategic matters, including waste management capacity and mineral provision. The County Council produces a Minerals and Waste Local Plan to allocate land for future development.

As the Lead Local Flood Authority (LLFA), the County Council is responsible for preparing and maintaining a strategy for local flood risk management across the county, and to ensure that appropriate, multifunctional mitigation measures are designed into new developments.

The County Council is the Education Planning Authority and a Strategic Commissioner of Education Provision in Kent and has other responsibilities to provide a range of other vital community services, including for Youth, Health and Social Care, Gypsy and Travellers, Public Health, Libraries and Registrations.

2(a). If no, why not?

[Don't know how to / It takes too long / It's too complicated / I don't care / Other – please specify]

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]

As a statutory consultee, the County Council would like to continue to be informed of consultations electronically.

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]

The County Council places great importance on the need to deliver growth that provides Kent residents with safe environments to grow up in, that promotes a good quality of life and that provides choice of and access to work and education. To ensure that the residents, communities and businesses of Kent are feeling the benefits of growth, it must be well planned and must contribute to enhancing the natural environment so that it can be enjoyed by residents and visitors. To help achieve this, the County Council would highlight the following matters as some of the key priorities for planning in Kent.

- ***Development supported by the necessary infrastructure:*** As a key infrastructure provider of vital community services across Kent, ensuring that all growth is supported by adequate facilities and services (including all the necessary community, environmental, economic and transport and waste infrastructure) to deliver robust and resilient communities, is a priority for the County Council. The County Council promotes an “Infrastructure First” approach to development, to ensure that all infrastructure is phased, funded and delivered at the right time – and ahead of housing growth, when appropriate. The importance of infrastructure delivery is crucial in supporting the quality of life for residents and so making developments more acceptable.
- ***Development is future-proofed, resilient and sustainable:*** The County Council wants to ensure that Kent’s existing and new communities are resilient; providing safe environments to raise children, enabling older and vulnerable residents the choice to live independently and allowing all residents to live in the home of their choice. Therefore, ensuring that development is fit for the future is a key priority for the County Council – whether it is in response to issues arising from the COVID-19 pandemic, or new and significant challenges arising from climate change. Environmental impacts, such as rising sea levels, could lead to greater chances of flooding and extreme weather could result in overheating in homes as well as issues resulting from colder temperatures – and so must be addressed in new development. Moving to a net-zero approach is crucial – and delivering on the ambition will require momentous and constant effort and action by all sectors and across all areas of life.
- ***Taking a strategic approach to development:*** The County Council has long advocated the role of strategic planning to secure balanced delivery of residential and employment growth. The County Council also strategically plans for the provision of minerals and waste facilities across Kent. Proper strategic planning across district and regional boundaries can support growth aspirations in the long term, whilst also delivering smaller scale growth in the medium term. The County Council considers that a strategic approach is a more sophisticated way to achieving sensible, needs

led housing targets, as well as delivering the required economic growth and local and strategic infrastructure that will be required to support development. As an example, enabling a shift towards sustainable modes of transport and low carbon travel, with transport infrastructure that provides opportunities to travel sustainably and reduce congestion in main conurbations, is crucial to delivering sustainable and resilient growth. Businesses, schools, health services and leisure industries all need the support of sustainable transport infrastructure - this often has to be considered at a strategic level and must be an integral consideration of any planning reforms.

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

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

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

Whilst the County Council supports, in principle, measures to simplify the planning system, it is concerned that in fact there will be a lot more work required to be undertaken in the proposed land use plans than the White Paper anticipates. Details on how the new land categorisation will work are extremely limited and setting up this type of system with design codes will be very time consuming to do properly.

Moreover, whilst the White Paper focuses very heavily on housing, it does not refer in any depth to the many other factors that Local Plans cover – including the infrastructure needed to support growth and minerals and waste planning. Given that the National Planning Policy Framework (the Framework) requires Local Plans to address a range of issues which are essential in delivering good growth, it is not clear how much scope there is for significantly reducing the burden of evidence to inform Local Plans. It is not clear how economic development will be supported – including the delivery of necessary employment land or consideration of different types of local economies (including rural economies). It is vital that sufficient and resilient employment space is provided alongside residential development to ensure adequate and environmentally sustainable local job opportunities for new and existing residents.

There must be careful consideration of how streamlining Local Plans will work in practice; including the allocating of land into three categories, and the rules that will be applied. Crucially, government must show how its proposals will still enable local democracy to inform decisions on land allocations and how local residents will be mobilised to have a voice and to provide meaningful involvement in the Local Plan process. The proposed system will be very directive and quite inflexible. The proposed three-part land categorisation is too simplistic and rules-based and at the very least, it is very likely that more land categories would be required. As an example, there is little clarity as to which proposed planning zone mineral and waste matters will fall within and it is difficult to see how the zoning system as proposed would work for this type of planning. Furthermore, it is not clear who will be responsible or what the implications would be for minerals and waste planning. The County Council is the Local Planning Authority responsible for the preparation and review of the Mineral and Waste Local Plan, the determination of planning applications, the monitoring and associated enforcement of minerals and waste development and the consideration of mineral safeguarding both in Kent and impacts from decisions by neighbouring authorities. Clarity is requested as to how these functions will work within the proposed reformed planning system.

When introducing any form of fast-track system for development consent in Growth areas, it will be critical to ensure that there is adequate recognition and consideration of the constraints on development (such as surface water drainage, biodiversity, waste, minerals safeguarding and potential archaeological impacts). This leads the County Council to strongly question whether the proposed reforms will really result in a quicker, more streamlined process as thorough assessment of the development is still required. Instead, because of its prescriptive nature, it could end up being more complicated and slower. Some particular examples, primarily specific to County Council services, are provided below.

- **Surface water:** As Lead Local Flood Authority, the County Council is particularly concerned about the assessment of surface water flood risk. Consideration of flood risk must not be limited to fluvial and coastal flood risk. Surface water flood risk can be a major constraint to development and needs to be properly assessed before determining the capacity of any site to accommodate housing. To achieve this under the proposed land categorisations, there needs to be clear recognition that surface water flood risk is an important constraint.
- **Utilities:** Local Plans provide a clear plan for the provision of housing growth over a medium-term period. This provides evidence for infrastructure providers about the future growth needs, including location and scale for crucial infrastructure. Without this plan, utility providers such as gas, electricity, telecoms and water companies will not be able to effectively plan for growth. Utility provision is therefore likely to lag behind housing growth, leading to poor provision for new housing or poor services to the existing housing stock in the vicinity of new developments. This is particularly acute for water services (both water supply and wastewater) where local capacity is a product of the size of local pipes and pumps that are expensive to replace. Low water pressure and sewer flooding are likely consequences. Alternatively, utility providers will have to make speculative provision for new growth to prevent poor standards of service, which will be highly inefficient and costly to bill payers.

Additionally, the impact of sewage effluent on the natural environment has recently been highlighted. Where this is having a detrimental effect on designated sites it is creating a block on housing developments, including in Kent, under the Habitats Regulations and requires new developments to achieve technically complex and expensive nutrient neutrality. This is stalling the delivery of housing and, without broad cooperation across a range of stakeholders to deliver a sustainable solution, could sterilize areas to new developments.

Ultimately, if there is no remedy for this, the County Council questions that in order to prevent new housing suffering from poor services or if there is restriction on the number of new connections, the provision of new housing stock could end up being determined by the adequacy of utility provision and therefore companies become the determinants of housing growth locations. This may lead to a more sustainable national distribution of housing stock. However, if sustainable distribution is an objective, there are more efficient ways to deliver it. Similar issues will arise with the provision of other services if service providers cannot accurately plan for growth.

- **Biodiversity:** This proposed land categorisation does not appear to allow for site-specific biodiversity to be taken into account and suggests that areas outside of 'Protected' zones have no biodiversity value. If all areas were subject to a biodiversity audit, which could inform development requirements within the growth and renewal areas, this could be more acceptable, but would need to be appropriately funded.

- **Heritage:** The proposed categorisation of land into three categories does not recognise that the historic environment is all around rather than being neatly packaged as designated heritage assets. It also does not recognise that undesignated archaeological assets, in particular, may only be recognised following archaeological field evaluation and are often protected through the planning process, rather than by designation (See the Framework, paragraph 194, footnote 63).

Currently, archaeological evaluation often takes place after a planning application is submitted, but before it is determined. Any important archaeological remains identified can then usually be preserved within areas of public open space or similar before the design is finalised; occasionally, areas need to be excluded from the application to allow preservation. The proposed system would bring forward the need for this decision-making to the land allocation stage, which in principle is acceptable, but it is not clear who would pay for the archaeological evaluation (as, for most sites, there would not be a developer involved at this stage).

The text identifies the Netherlands as one country where the principles advocated in the consultation have been applied. It should be noted that to make the approach work, the Netherlands has introduced requirements that the UK lacks. Archaeological contractors are licensed, their standards are formally and objectively assessed. If they fail to maintain their quality, then the licence can be withdrawn. If the planning process is to be speeded up, with reduced pre-application intervention, then it is important that the contractors get things right first time. If they do not, then the heritage will suffer. Also, the developer pays a sum of money to the state which is the final 20% of their payment to the archaeological contractor. The state will pass it on once the final publication is issued. This produces near 100% completion of projects and prevents money being spent on other projects. This is not practiced in the UK at present but demonstrates the significant change that would be needed if the quality of life and environmental sustainability goals of the proposed reforms are to be met. *(As a separate example, in France, a tax on development is paid to the state to enable archaeological evaluation to be undertaken at the allocation stage).*

Mineral Safeguarding- This proposed land categorisation does not appear to allow for mineral safeguarding considerations to be taken account of. Safeguarding is a key component in the delivery of sustainable development and also ensures that minerals needed for construction are not, where necessary, built over or have access to extraction blocked by other development (and by also ensuring that safeguarding considerations are taken into account prior to the allocation of non-minerals developments, and where necessary ensuring that they are not built over or have access to extraction b). A reformed system needs to adequately address how safeguarding matters are to be addressed, particularly in growth areas. Such matters usually form an important part of current Duty to Cooperate discussions at plan making stage.

The County Council would note that judicial reviews can often result in a lengthy (and costly) delay, which is completely out of the local planning authorities' control. It is recognised that White Paper reforms seek to remove the risk of judicial reviews occurring through the creation of robust planning policies and law to reduce the scope for ambiguity and challenge.

Overall, whilst the proposed reforms are claimed to create a 'simpler, faster, people-focused system', there is a big shift in how community involvement will function and a heavy reliance on the use of technology to improve engagement. Public engagement would be focused on the start of the Local Plan process – reducing opportunities for the public to engage at later stages of planning. KCC is concerned that, whilst the intention is for it to be a people-focused system, this may not be the reality if the reforms are implemented. The Local Plan

proposals (together with the proposed streamlining of planning applications and various other reforms put forward) could risk undermining local democracy. The Local Plan consultation stages and the revisions to the development management processes must allow for elected members to represent the interests of their local residents and for planning committees to still have an important decision-making function, so as to provide the public with real opportunity to influence and shape proposals and places. The County Council's Planning Committee and its local knowledge and expertise plays a crucial role in representing the residents and interests of Kent in assessing and determining applications. This is a valued and important function that should not be lost in the reforms.

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

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

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

The County Council agrees there may be some benefit to setting out development management policies nationally to streamline the content of Local Plans. This approach could have benefits for certain policies by eliminating the need for repetition and it could work for topics where many policy requirements are repeated across local policy.

However, there must be flexibility and provision for local authorities to include policies on local issues and site-specific matters so as to not lose the local accountability of projects. The proposal could be amended to allow for local authorities to adapt or add policies, as necessary, to reflect local issues. This would provide for some streamlining but would also ensure that local characteristics can be taken into account to ensure the effectiveness of the development management policies.

The County Council, as Lead Local Flood Authority, has supported Defra in the review of Non-Statutory Technical Standards for Sustainable Drainage, which have direct implications on the design and delivery of drainage within new development. The County Council appreciates that these standards are to deliver consistency of design approaches on a strategic level. Topography and geologies, as well as flood risk, vary across the country and from site to site. The definition of the drainage solution for a specific site must respond to its own constraints. Therefore, whilst national guidance may set strategic objectives for surface water management, such as hierarchy of drainage destination, preference for surface water features and standards for flow rates and volumes or surface water, the specification of development requirements beyond this is inappropriate as local requirements must reflect local conditions.

National based policies may also present challenges in areas such as biodiversity, where assets can be very locally based. For example, national policies may not allow for regional and local biodiversity differences to be considered appropriately, and could lead to the loss of significant amounts of small areas of biodiversity importance for both species and habitats if they do not fit in to the national policy stance. Furthermore, in the case of Areas of Outstanding Natural Beauty (AONBs), it is appropriate for Local Plan policies to set out how development can comply with the test of conserving and enhancing, by identifying how this can be achieved relative to the protected landscape's specifically identified special characteristics - this will be challenging to apply through national policies.

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

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.]*

The County Council supports the recognition within the White Paper to protect and enhance valuable habitats whilst speeding up the framework for assessing environmental impacts. It is recognised that the work in compiling Environmental Impact Assessments (EIA), Sustainability Appraisals (SA) and Strategic Environmental Assessments (SEA) is very work intensive and leads to very long reports and KCC would support consolidation where feasible, and the use of digitisation to make the information more accessible. The County Council also supports the intention to take advantage of opportunities for environmental improvements.

Nevertheless, whilst the intention to simplify the process of environmental assessment is supported in principle, it is difficult to comment on the proposal any further, as there is little detail of what the proposed sustainable development test would involve. Moreover, in reality, it is not clear how the evidence base would be simplified given the wide range of matters which the Framework requires plans to take into account. In practical terms, it is not yet clear what scope there is for significantly reducing the required evidence.

It is critical that effective tools are in place to allow for the proper assessment of impacts on the environment (as well as on the social and economic impacts) and to ensure that opportunities for environmental gain are secured. Plans will still be required to be developed for compliance with the Habitat Regulations.

An important example of the potential environmental impacts of development is at Stodmarsh National Nature Reserve; a key environmental feature of the county and country, which provides high quality habitat for a range of species and an important and highly regarded green space for residents. It is currently in an unfavourable condition due to poor water quality in the River Stour, largely due to discharges from sewage treatment works. Any further developments in the catchment could prevent the site from recovering from this unfavourable condition, unless they achieve nutrient neutrality. This could stall up to 50,000 homes across six Local Planning Authorities. Under current guidance, this issue can be dealt with through measures in the Local Plans, which could provide for treatment facilities to deliver nutrient neutrality and identify strategic opportunities to deliver this for a number of sites. Without an effective mechanism in place to coordinate this activity, developers would have to manage this and deliver the necessary infrastructure individually.

KCC awaits the consultation anticipated in the autumn to comment more fully on any further detail.

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

The County Council is very concerned that radical reforms of the planning system are being proposed without any clear plan of what arrangements would be put in place to replace the Duty to Cooperate. It is essential that there are robust arrangements in place to deal with

strategic issues including health, education, mineral planning, waste and transport infrastructure (and many other County services), and planning for major settlements, particularly when they straddle boundaries or dealing with unforeseen and unplanned for issues that affect a large area (the Stodmarsh Nature Reserve issues, raised in the response to Q7(a), being an example).

Whilst the Duty to Cooperate may not be a perfect mechanism, removing it without anything proposed to replace it will make the existing void even bigger. Strategically planning for growth is not just about making decisions on housing numbers or even delivering cross-boundary infrastructure. It is about integrating all the issues that are so essential in creating great places to live – whether this is the provision of roads and schools, incorporating measures that tackle air quality, water quality and climate change challenges or addressing investment confidence. It also has a key function in planning for and prioritising investment, especially given the evidenced large funding gaps for critical infrastructure.

A lot of key infrastructure and services is provided by the County Council and it will be crucial for satisfactory arrangements to be in place to deal with matters that cannot always be dealt with on a local scale. For instance, in its role as Local Highway Authority, KCC would emphasise that sustainable growth must be accompanied by major strategic infrastructure that will promote modal shift towards sustainable transport modes. There must be adequate sustainable transport infrastructure made available to support existing communities and visitors, and that of new developments and communities – encouraging a shift towards sustainable transport modes. This includes ensuring that employment sites are planned in highly accessible areas (with opportunities for active travel) supported by adequate sustainable infrastructure. This will also help to address the issue of traffic congestion and related negative impacts upon air quality and health for residents so that further growth will not exacerbate the issue. All of this requires cross boundary working between neighbouring county and district authorities and must be robustly addressed in any planning reforms.

The role for wider strategic planning is crucial to secure balanced delivery of residential and employment growth, as well as smaller projects and large-scale redevelopment across the county. The awaited Government devolution proposals will also be critical to understanding the role of strategic planning, and indeed, how many of the White Paper's reforms around land use planning will operate.

Notwithstanding the above, an important part of the strategic planning approach within Kent will be the Kent and Medway Infrastructure Proposition; a deal with Government for new infrastructure investment, which will enable housing delivery that is focussed on building the right homes in the right places and providing the infrastructure, jobs and homes that residents will need now and in the future. The County Council would like to see strategic planning being supported in the proposed reforms.

In respect of minerals and waste planning, it is worth noting that, whilst the Duty to Cooperate may have had mixed success in district plan making, it has been successful for the strategic planning of minerals and waste management. This may well be a reflection of the cross-border nature of these developments and the economic markets which they work within. Various alternative options specific to minerals and waste planning are suggested:

- Strengthening the Managed Aggregate Supply System (MASS) so there is more rigour around ensuring national aggregate requirements are understood in plans and Local Aggregate Assessments (LAAs – the annual snapshot of supply and demand) are delivering on national requirements

- Placing regional Waste Technical Advisory Boards such as the South East Waste Planning Advisory Group (SEWPAG – Cross County working group) on a statutory footing and providing funding to tackle key strategic issues including residual waste and hazardous waste
- Ensuring that identification of growth and renewal zones do not jeopardise existing waste and minerals infrastructure and take account of mineral safeguarding areas including wharves and rail heads
- So that minerals are not needlessly squandered, Mineral Safeguarding Areas should default to the category of protected zones with the same requirements for full planning applications i.e. development can come forward subject to a planning application demonstrating the impact on any economic minerals. The presumption of development associated with growth and renewal zones cannot apply in Mineral Safeguarding Areas.

It is also noted that the White Paper does, in places, appear at odds with other Government objectives. For example, the current consultation on the Waste Management Plan for England seeks cooperation across boundaries via the proposed to be abolished Duty to Cooperate. There is also no mention of Circular Waste Economy in the White Paper, which has a key role to play in delivering Net-Zero objectives from Government.

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

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

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

The proposed revision to the standard method put forward in the ‘Changes to the Existing Planning System’ consultation would not re-balance the way that housing would be distributed across the country. Significantly, there is concern that the diagnosis of the problem is incorrect – the County Council disagrees that the planning system is to blame for undersupply of houses. Local authorities do not build homes and there is a much bigger issue that planning permissions are not being converted into houses. It is also worthy of note that the decline of local authority housebuilding has had a big impact on housing supply – and more attention should instead be given to incentivising policies for local authorities to build again. It has not addressed renewal and infrastructure needs in northern English authorities and would result in highly constrained authorities in the South East having big increases in their housing need figures. Across Kent, there has already been a significant level of growth and the proposed increase in housing figures for Kent is unrealistic. KCC maintains its objection to such a mechanistic approach for calculating housing numbers.

It is understood that the proposed formula would be used in informing a new housing requirement, although it is not clear how this would work. There are no details to explain how a nationally set requirement would take into account a range of very locally specific constraints. The County Council seriously questions how a nationally set formula could adequately address local circumstances in a robust way when there are so many locally specific constraints and opportunities that would need to be factored in.

Furthermore, there is concern that the provision for local employment space would end up being sacrificed to deliver such high housing requirements, which would put at risk the ability to create balanced and sustainable communities.

Given the above points and in the absence of any proper details, the County Council does not support a standard method for introducing housing requirements. It would also highlight that ultimately land supply is not the issue when housebuilders decide whether to build or not in an area and allocating more sites will not necessarily result in more homes being built.

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 sure. Please provide supporting statement.]

The County Council is committed to ensuring that all Kent residents should have an opportunity to live in good quality and affordable housing and recognises its key role in its wide range of responsibilities and close working with other authorities to achieve this. However, the use of affordability in the housing need formula proposed in the 'Changes to the Existing Planning System' consultation has produced an unrealistic and unbalanced distribution of growth between regions in the north and south of the country. The County Council raised considerable concerns in respect of the proposed use of the affordability index for determining housing need.

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

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

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

When determining an outline planning application, the Local Planning Authority has to consider all implications of the proposed scheme. This can involve a range of factors which are not necessarily straightforward or quick to resolve and may require detailed engagement with consultees. As a statutory consultee and infrastructure provider of vital community services, the County Council would therefore play an important role in assessing various aspects of outline permissions.

The particular considerations will depend upon the circumstances of the site and the proposal. They may include matters such as infrastructure requirements (including green and blue infrastructure), required mitigation and environmental and protection matters (including adverse impacts such as land contamination or stability). The County Council would emphasise that these are not matters of detail that can be dealt with as reserved matters stage, but need to be resolved upfront, in establishing the principle of whether to grant outline permission. Assessing outline permission for areas for substantial growth areas are therefore likely to entail substantial work, cost and time and it is not clear how this would all be captured within the proposed timeframes and anticipated resource implications for preparing Local Plans. KCC provides some specific technical comments in respect of its individual infrastructure provision below:

- **Highways and transportation:** The County Council, as Local Highway Authority, would - in principle - be supportive of this approach provided that there is sufficient time and resource given to assessing the development impact at Local Plan stages to ensure it does not cause inherent congestion or safety issues on the highway network. The County Council requests further clarity on what would be established as part of this outline permission (access etc.) as each development granted under this route would require specific parameters built into any consent.
- **Minerals and Waste:** The County Council, as Minerals and Waste Planning Authority, is concerned about the impact this proposal will have on minerals and waste safeguarding. The County Council is generally concerned with the lack of consideration of minerals and waste development throughout this White Paper but in respect of this proposal, KCC is seeking clarity that safeguarding will be considered at the earliest of stages to ensure there is no impact on the supply of necessary minerals across the Country.
- **Surface water:** The County Council notes that “areas of flood risk would be excluded from this category (as would other important constraints), unless any risk can be fully mitigated.” The County Council, as Lead Local Flood Authority, would highlight that the provision of adequate and appropriate surface water management within a development site (so as to not create flood risk onsite or off-site) may be focused on the surface water generated from the site itself, and may not be a reflection of any fluvial risk. Making space for surface water within a masterplan may significantly reduce available development area and associated dwelling numbers which may be accommodated. Therefore, the County Council would welcome clarity as to when this matter will be addressed for this type of consent.
- **Biodiversity:** The County Council is concerned that it will become solely the local planning authority’s responsibility to assess and understand the ecological interest of area, with minimal involvement from the development industry that is likely to be responsible for implementing any measures.
- **Heritage Conservation:** The County Council is concerned with the level and timing the evaluation and assessment of archaeological impacts and considers that heritage must be addressed at the earliest point in the planning system. There should be appropriate consideration of archaeology prior to the allocation of a development site to understand if the preservation in situ of important archaeological remains is an appropriate course of mitigation. There needs to be a field investigation of any proposed site at the earliest stages to fully appreciate if archaeology is present on site and if there is, the local, national and international significance of any finds. The delaying of any investigation on site could cause costly delays to the delivery of new homes as mitigation is then sought, potentially impacting the number of homes expected to be delivered from the site. The County Council would also question the potential for archaeological impacts and required mitigation to be factored in to any land price negotiations to further ensure that the cost of mitigation does not impact the level of available spent for other necessary infrastructure or affordable housing. It is also emphasised that this issue does not relate solely to archaeological matters.

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

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

The White Paper proposes that Renewal areas should be subject to “a general presumption in favour of development”. It is not clear what this mean in practice, nor what Renewal areas might include. The County Council’s overall concern is the impact that these proposals may have on the delivery of infrastructure to support sustainable development.

In addition, it is not clear how open space and green space such as parks, playing fields, schools and allotments, would be categorised. If they were located in Renewal areas, and therefore under a presumption in favour of development, the County Council is concerned that this valuable resource may be lost. Such areas are very important to the general health and well-being of communities and will need to be retained.

The White Paper suggests that conservation areas would be included within Protected areas. However, large parts of many town centres that may also provide good growth opportunities are within Conservation Areas. The County Council requests clarity on how Conservation Areas will be considered under the proposed planning reforms and how any indirect impacts on Conservation Areas will be managed.

There is also a concern that the categorisation of three types of land also does not recognise the potential of the historic environment as a positive driver of growth. The term 'Renewal' implies there is something wrong that needs to be improved upon, whilst 'Protection' suggests a stagnation and burdensome regime designed to inhibit change in these areas, rather than to facilitate it. At present, a significance-led approach is taken to protect the historic environment. This allows the historic environment to be used to help create well-designed places by protecting what makes them special, whilst allowing new development that is sympathetic and well-designed.

There are many areas suitable for redevelopment within Conservation Areas and the allocating land as Protected should not act as a disincentive to investment in these areas. Many such places are currently Heritage Action Zones to help preserve their heritage, unlock their potential and improve their condition. Any new system should allow Local Planning Authorities to allocate specific sites within conservation areas for 'Renewal' with strict design briefs and masterplans setting out what would be acceptable uses for sites in need of regeneration. These should describe the site's significance, which heritage assets should be preserved and which features are ripe for removal. It should also identify any archaeological potential or building recording required. This would give everyone clarity and de-risk investment decisions.

There will need to be clarity on the many anomalies and so the County Council would welcome further opportunities to consider how this land categorisation would operate once more details are provided.

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.]*

No. The County Council considers that local planning authorities should be the decision-making authorities.

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

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

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

Digitisation of applications: The County Council welcomes further focus on the digitalisation and data surrounding planning, provided there is the necessary training, funding and resource to support this approach. Data sharing on a local and national scale could have positive benefits, including improving the quality of schemes coming forward. The development of innovative and accessible digital platforms for planning applications data is also supported, provided that continual review mechanisms are built in to ensure the data is up to date and accurate, to provide a robust basis in which to prepare and determine applications against. The County Council would raise the need to ensure that the digitalisation of the planning system does not impact on accessibility at all stages, especially relating to harder to reach groups who must be provided the same opportunities to engage with the planning system. Engagement should be accessible at all stages of the planning process, offering genuine opportunities to engage throughout – even at later stages.

To assist in the preparation of planning applications and decision making, the Historic Environment Record should be made more widely available, as part of the digitalisation and data approach of the planning system. This could ensure that heritage issues are considered at relevant stages of the design of a new development. There is however a cost to the maintenance of this data which would have to be considered.

Application determination deadlines: In principle, the County Council supports efforts to make decision-making faster and more certain, but this must not be at the expense of making sound quality decisions or meaningful public engagement. There is significant doubt as to whether inflexible deadlines are the answer, especially when there are complex issues to be resolved and particularly when both the local authority and developer are in agreement that an extension would be beneficial and necessary to securing a consent.

The current process allows for key stakeholders and the public to make representations and this helps to inform decisions at all stages of the planning process. There is a danger that by restricting the timeframe in which to properly consider a planning application (i.e. by not allowing extensions in determination), decisions may not be well informed or based on robust evidence. For instance, if a transport model needs to be built to test the off-site impacts of a large scale development or a new scheme designed and safety audited, this could not be accommodated within the deadline -despite being a crucial part of the decision making process. Planning Performance Agreements are not mentioned in the White Paper. These are extremely valuable in the determination process; enabling mutually agreed terms, resource and timeframes.

Delegation to officers: The paper states that Government will consider the most effective means for neighbours and other interested parties to address any issues of concern where the principle of development has been established, leaving only detailed matters to be resolved. However, it does not provide the detail to illustrate how this would be done. The reforms would be damaging to local democracy and public accountability of the planning process by reducing the opportunities for the public to engage with the planning process by significantly removing the responsibilities of planning committees and opportunities for the public, town and parish councils and local groups to engage. The proposal to provide

applicants an automatic rebate of their planning application fee if they are successful at appeal (having been refused consent by a planning committee) is not supported as it would introduce financial pressures linked to decision-making.

Shorter standardised planning applications: It is crucial for the County Council to have assurance that applicants can be required to provide the necessary information to allow for the proper consideration of the impact of development and what infrastructure is required to support it. Whilst there could be merit in reducing and standardising supporting documents, to a degree, there is a risk that robust decision-making could be at risk if the right information is not made available to the necessary parties at right time. Therefore, the County Council does have serious reservations about this proposal. Planning Committees, as well as the public (including town and parish councils and local community groups) must be provided with adequate information in order to understand, assess and make a judgment on proposals.

As an example, the County Council is particularly concerned about for the potential shortening of evidence to support minerals and waste applications. This is likely to have a greater impact upon mineral and waste development as these types of projects frequently require a significant level of evidence to satisfy, Planning Committee and local community concerns. This must be taken into account within the planning reforms.

The use of templates by LLFAs has proven a positive complement to drainage submissions. The County Council stresses the need for robust standardised documents to be developed in consultation with relevant expertise to ensure their effective use.

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

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

The County Council is supportive of a move to a more visual map-based approach to Local Plans that embraces the latest technologies, provided that appropriate tools and resources are provided to facilitate this approach.

It will need to be demonstrated that a far more heavily digitised process does not further diminish the voices of those already disadvantaged or marginalised, including those with certain Protected Characteristics. Consideration must also be had for people who will struggle to engage digitally or choose not to participate in online social networks or who do not have access to the most up-to-date smart phone technology.

As climate change and population growth intensifies, it is vital that the planning system acknowledges resilience and emergency planning principles and ensures new communities design out risk through their siting, layout and construction. A map-based approach could usefully also identify local risks and vulnerabilities (such as reservoir inundation, Major Accident Hazard Pipelines and other utility networks, Air Quality Management Areas, offsite detailed emergency planning zones for industrial and defence facilities and industrial offsite impacts) to improve considerations for emergency planning.

There could also be opportunities to increase accessibility of background research. An example of this is the archaeological research carried out as part of the planning process. At

present, this information is challenging for communities and developers to access and understand easily.

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

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.]

The County Council, as a plan-making authority for minerals and waste, considers the proposed timescale as very optimistic. In its role as a statutory consultee on Local Plans, the timescale and the limited level of detail required could also severely disadvantage the County Council (and other statutory consultees) in providing evidence of infrastructure needs and requirements, as well as any opportunities and constraints which should be considered through the local plan process.

Although KCC does agree that there could be scope to streamline the plan preparation process, there is concern that setting an arbitrary timetable in this way could affect the quality of Local Plans, as well as the quality of community engagement, and would also overlook the time it can take to resolve matters that are sometimes outside a local authority's control. Furthermore, the proposed emphasis on community engagement at plan making stage is likely to increase timescales further.

Fundamentally, the Local Plan will identify what growth will be delivered over the next 20-year period and this will have a significant impact on people's lives. This is so important. The people and businesses of Kent need Local Plans that have been carefully considered and based on evidence; not rushed through. The existing system does allow for careful and full consideration and assessment of all impacts of proposed development allocations and enables thorough consultation with key stakeholders and the public. This is essential in ensuring that development includes the right infrastructure and services needed to make the development successful and attractive, without causing undue harm to the surrounding area. It is really important that this is not lost in measures to streamline.

In particular, the current 'regulation 18' consultation stage of a Local Plan (which is proposed to be removed from the process) is a really useful stage for the County Council as a statutory consultee, as it allows for the early identification of issues and options whilst there is still time to resolve any critical matters and inform the overall growth strategy for a district.

The County Council would suggest that a statutory duty to adopt a plan by a specified date or within a specific timescale should not be introduced unless the Plan has demonstrated conclusively the measures will be in place to make this achievable.

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

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

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

Across Kent, there has been a significant take up in the production and adoption of Neighbourhood Plans. They are important in ensuring new development is rooted in local distinctiveness and offering opportunities for local residents to shape future development in their area and tailor it to local area circumstances and needs. They provide a very useful tool in local planning in allowing local people to be directly involved in the planning of the local area, driving suitable development whilst also gaining an appreciation of the balances in growth required to deliver sustainable development. They are often developed following extensive public consultation with the local community and provide comprehensive detail on a very local level.

Neighbourhood Plans are therefore an important tool in policy planning that provide communities with the opportunity to shape future development in their local area and so their retention in the reformed planning system is supported. However, it is not clear what place Neighbourhood Plans would have in the proposed reformed systems and where they would fit in with categorisation policies and design codes. It will be important to ensure that their function is not diminished or limited to matters of design, following the implementation of any land categorisation proposals.

Town, parish and district councils, neighbourhood planning groups and other local bodies play a vital role in the planning process - offering unique, localised perspectives on the challenges and opportunities within a local area, as well as an appreciation and understanding of local characteristics and this role must not be lost in any planning reforms.

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 planning process can be time consuming and costly to produce a sound Neighbourhood Plan, with the process largely dependent on the goodwill of volunteers. There should be adequate resources, funding and support made available to boost the move towards a more digitalised approach to planning on a neighbourhood level. There will be considerable expertise required to make this transition and neighbourhood planning groups may require support to ensure their plans remain effective and accessible.

Proposal 10: A stronger emphasis on build out through planning

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?

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

There are very few details to comment on under this proposal, but the County Council would like to work with Government as possible options emerge following the Government's formal response to the recommendations set out in the Independent Review of Build Out Rates produced by the Rt. Hon. Sir Oliver Letwin, and particularly those relating to how to maximise land value capture through the diversity of homes delivered on large sites. Measures to speed up the build out of developments will only be acceptable if they are supported by timely adequate infrastructure and do not compromise the delivery of truly sustainable places.

The proposal that substantial development sites will be brought forward by different builders (to allow more phases to come forward together) could be supported, but further clarity is required as to how this would work. There are many complex factors that need to be taken into account including the location of access points, land constraints, phasing and construction management to ensure that the division itself ends up being a very protracted process.

The sub-division of sites must not result in any impact on infrastructure delivery. Large scale development is often able to provide a significant level of infrastructure that can support the new community without compromising on existing infrastructure. Under this proposed reform, the obligations regarding infrastructure provision and contributions would have to be shared fairly between each housebuilder and planned strategically. It would require a clearly defined role to ensure the correct timings of infrastructure delivery across the development and would need to clearly define the role for equalisation agreements to ensure all parties have a reasonable share on the delivery of mitigation and infrastructure requirements.

Pillar Two – Planning for beautiful and sustainable places

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**]*

The County Council welcomes the importance given in the White Paper of planning for beautiful and sustainable places. KCC would emphasise that high quality design is more than just aesthetics - development must be well connected, resilient and responsive to climate change and incorporate green, sustainable, and multifunctional infrastructure that contributes to health and physical and mental wellbeing. Across Kent, there are exemplary placemaking examples of residential, non-residential and mixed-use schemes that have been designed to a very high standard and successfully delivered. In respect of its own services and infrastructure, the County Council would like to highlight a number of key design and place making considerations that have arisen from new development and which should be captured in the new reforms and particularly in the use of design codes.

Incorporating sustainable transport options: The County Council continues to face significant pressure in delivering adequate transport infrastructure to meet planned needs, whilst also promoting more sustainable transport options, including active travel and rail. Any revisions to the planning system must ensure that sustainable and accessible transport options are central to the design of new development.

Integrating public rights of way: Often, public rights of way (PRoW) are poorly integrated within the design of new development sites. This matter could be easily addressed by ensuring that developers adhere to good design principles, accommodating paths within attractive green corridors and engaging with the Local Highway Authority at an early stage of the planning process to consider the design and layout of PRoW. Opportunities have been missed to upgrade paths, improve wider PRoW network connectivity to boost active travel and increase access for cyclists and equestrians. Planning reforms must consider the strategic nature of the delivery of sustainable infrastructure, ensuring the connectivity between existing and new communities.

Incorporating useable green space: New developments may be fulfilling Local Plan requirements to dedicate a percentage of the site as open green space, but it is notable how many verges and green edges are included in this calculation. In reality, the amount of usable open green space found within new development layouts is small and inadequate for public needs. Even more apparent when reflecting on recent lockdown events, the benefits of accessible public open green spaces are clear, yet new development does not appear to be providing sufficient levels of this resource. Reforms must consider the natural environment, as well as the built environment to ensure that this key resource is able to meet evolving demands and provide suitable recreation and open spaces. These are vital for physical and emotional wellbeing, particularly during times of uncertainty.

Incorporating SuDS: KCC promotes a sustainable drainage approach in all new developments. Unfortunately, drainage provision is often considered late in the planning process and many opportunities for maximising design outcomes are lost or not acted upon. Additionally, surface water drainage provision may be impacted by adoption options. As a consequence, new developments often contain surface water drainage systems that are poorly designed and built, and planning reforms should seek to tackle this.

Farm diversification: Farm diversification (including converting existing/redundant buildings, developing new buildings for holiday let purposes or the recent growth of new

Winery businesses) can often create well-designed businesses with market appeal. Diversification projects that are more processing/manufacturing based will tend to be more utilitarian in design and many of these could be designed in a more sympathetic manner better to fit the local landscape. Planning reforms will need to appropriately consider the constraints and opportunities of the rural economy in terms of both design and productivity.

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**]*

The County Council's priorities for sustainability are set out in the Kent Environment Strategy, which aims to support economic growth whilst protecting and enhancing our natural environment and creating and sustaining healthy, well designed vibrant and resilient communities.

Through the framework of the Kent and Medway Energy and Low Emissions Strategy, the County Council has also committed to reducing the area's greenhouse gas emissions to net-zero by 2050. KCC's priority is therefore to see that all new developments (through all phases) support its net-zero and clean growth principles:

- Energy supply is from low carbon sources
- Natural resources (such as land, soil, water, energy and materials) are used efficiently and circular economy principles of reduce, reuse, repurpose and recycle are maximised
- Communities are sustainably connected, with adequate health and community infrastructure, full digital connectivity and easy access to walking and cycling routes and public transport which address issues of air quality and improve the health and wellbeing
- All buildings and infrastructure will, throughout their lifetime, be resilient and robust to the challenges faced by climate change and social change
- Support biodiversity net-gain and promote nature-based solutions that can provide benefits to ecosystems whilst improving health and wellbeing, sequestering carbon and providing social value
- Support a sustainable drainage approach to surface water management providing multifunctional green infrastructure.

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

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

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

The County Council welcomes the emphasis that the White Paper places on creating 'beautiful' places and it supports the focus on placemaking and the need for more ambition in the places we create. In principle, the County Council supports the use of design guidance and codes to be developed locally with community involvement, provided they add value as a useful tool in the delivery of sustainable growth. It will be important for full use to be made

of all the high-quality standards, guidelines and templates that have already been developed, including the Kent Design Guide; as well as engagement with experts in developing these. The status of the design codes/guides must be clarified, as they are likely to be time and resource intensive to complete. The County Council seeks assurance that the design code requirements are delivered and not just viewed as aspirational - with consideration given on how to ensure buy-in from the development industry. The County Council would therefore request that the mechanisms are also provided to ensure compliance. The codes will also need to be updated to ensure that they contain the latest relevant standards and requirements, when developing and delivering large development sites. Design codes must allow for a degree of flexibility to ensure the continued delivery of all infrastructure, including green and blue infrastructure, even when applicants seek changes from the original approval.

It is really important for local residents, local community groups, town, parish and district councils to be actively involved in the production of design codes. The local knowledge and local understanding that the community can provide will enhance the effectiveness and quality of the design codes (and resultant development) and so any reforms should clearly articulate their role in production.

Design codes and guidance will need to ensure that they factor in the need to create resilient and future-proofed communities, particularly given that severe weather, in terms of increased number of storms, floods and droughts, will inevitably intensify in coming decades. This could include requirements to use resilient construction materials and landscaping. Codes should also consider the need to design utilities against severe weather impacts, as loss of power or water can have a profound negative impact upon local communities and will become an increasing risk as climate change intensifies.

Design codes should be as locally defined as possible. For instance, a design code for a whole district would be meaningless, as there will be so much variety within the district that it would become homogenous or encourage development that would actually be not in keeping in some areas. A residential scheme in Tenterden, Ashford is a good example of locally informed design, where the Town Council and all tiers of local government and the wider local community were actively involved in the design and development of the masterplan and in the development process (further details can be provided on request). Design codes will also need to encompass all aspects of design - materials, scale, orientation, massing, and layout - to ensure that all aspects of character are properly considered (i.e. not just the design of individual buildings). This will need to be complemented by a better understanding of historic landscapes and townscapes, many of which need additional research. The new design codes should make best use of existing characterisation research such as Historic England's extensive urban surveys, historic landscape characterisation and Natural England National Character Areas, together with local studies. With appropriate funding, all of these could be made available in digital map form.

To deliver sustainable surface water drainage, the requirements of the drainage must be understood and integrated into design codes. The National Design Guide (October 2020) includes a policy to 'Improve and enhance water management' (Policy N2), which states at a high level some characteristics of what a well-designed place would require in relation to surface water management. These statements are not specific or detailed enough to ensure the delivery of sustainable water management. There are various factors that hamper inclusion of a sustainable drainage approach (including housing densities and dwelling numbers within allocations, maintenance obligations, control of drainage measures within private curtilages and open space policies), which must be taken into account in the creation of local design codes.

There is a well-documented link between people's mental and physical health and where and how they live. KCC considers it vital that places should be planned, designed and managed to be healthy places and this objective must be captured within design codes and guidance. New development provides an opportunity to build communities that actively promote health and wellbeing; easing future pressures on health and other public services. The reforms should make public health a practical, integral part of the planning process, involving the public, private and voluntary, community and social enterprise sectors.

Lastly, a really critical issue for the County Council is that, as a provider of education facilities, it is constrained by the funding and design requirements set by the Department for Education. These constraints can lead to difficult design and delivery choices and can be a barrier to higher quality designs. There needs to be a consistent approach and standard set across government departments to prevent this occurrence. Design codes and guides must take constraints such as this into account to ensure they are deliverable in practice.

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

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.]

The intended creation of a successor body to CABE is welcomed. The County Council would like to understand its exact role and where it would add value in the planning process. Local circumstances, challenges and opportunities vary significantly and KCC questions how these local variations could be taken into account through a national body. The role for sharing examples of best practice to local authorities and providing support on specific issues, which may arise in relation to design could be considered.

The County Council supports the recognition in the White Paper of the importance of design and place-making. The County Council strongly advocates the need for planning departments to be properly funded and resourced to ensure they are able to carry out their role within a reformed planning system. Any reforms should ensure that planning departments have adequate capacity and the right skills to manage the planning and development needs in their area. The County Council looks forward to being given an opportunity to comment on the proposals that will follow for improving the resourcing of planning departments, as a planning authority in its own right.

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

19. Do you agree with our proposal to consider how design might be given greater emphasis in the strategic objectives for Homes England?

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

The County Council fully supports this proposal as Homes England does not always promote good design in developments it is funding; for instance, where a developer has been allowed to build without due regard to necessary community infrastructure (such as Chilmington in Ashford).

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

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

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

The County Council is fully supportive of the government’s intent to consider whether there could be mechanisms that incentivise high quality development. The County Council disagrees however with the proposals for implementing a fast-track for beauty and is concerned that they will not lead to higher quality design. Instead, a more rounded approach to design and infrastructure provision is recommended, which will deliver communities that will be more sustainable in the long term.

‘Beauty’ is of little value if the development does not meet people’s needs and does not provide the right services and infrastructure. It must instead be understood that design goes far beyond aesthetics and must include consideration of designing in space and facilities to promote health and well-being, availability of super-fast broadband, the changing use and demands of workspace and layouts of buildings and communities that address climate change considerations. These issues, and more besides, are all critical in design and place-making.

KCC has a particular concern that the proposal for the extension of permitted development rights is not the way to achieve high quality design and following a pattern book approach could rule out opportunities for design creativity and innovation. The County Council is pleased that a pilot will be introduced to test this before any commitment is made to this proposal.

In addition, it is not clear how a fast-track system could effectively work to automatically grant applications that are of high-quality design – particularly in assessing which applications meet the definition, given the highly subjective nature of beauty and good design.

The County Council would also raise concerns regarding the difficulties which are likely to be faced (and the extensive skill and resource that will be needed to get it right) by communities in properly engaging at the plan making stage on a design code. Also, there is the concern

that their role will be very limited once the principle of development has been established. Local communities can play a vital role in informing detailed stages of design, layout and place-making with their knowledge of the area, and this would be lost.

The County Council's key concern with these proposals is that by introducing a fast track for 'beautiful' developments, the importance of integral aspects of sustainable development and placemaking (many of which are services and infrastructure that KCC provides technical expertise on or delivers) could be lost by focusing on emphasising the importance of just one aesthetic aspect. This could as a result lead to harm to the local, natural and historical environment. It is considered unlikely that the fast-tracking approach as currently proposed would deliver the best solutions for the community.

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

Climate change will present new and significant challenges for the UK. Environmental impacts such as rising sea levels, could lead to greater chances of flooding, and extreme weather could result in overheating in homes issues resulting from colder temperatures. By addressing the challenges presented by climate change, the reformed planning system must deliver resilient development to ensure long term sustainable growth. It is suggested that the system needs to grapple with the severity of the challenges and respond with a delivery framework for developers to operate in (this could include for instance the installation of energy efficiency measures and improvements the fabric of housing and non-domestic buildings).

The role of developers in the funding and delivery of multifunctional infrastructure (such as natural flood defences that can double as attractive public green space) must also be clarified through the reforms.

The location of development should be a consideration in how growth might address the challenges from climate change. This should include the accessibility of the site to necessary infrastructure, as well as the environmental suitability of a site. The County Council would recommend that development should not take place, in so far as possible, in areas which have an increased flood risk, due to the inherent challenges and likely impact on these areas resulting from climate change. The role and use of sequential and exceptions tests under the current approach should be factored into any new system.

It is clear that if Net Zero is to be attained by 2050, planning permissions granted today will need to ensure optimal energy efficiency, incorporation of renewable energy generation and support delivery of new and enhanced wetlands and woodlands. The County Council agrees with the White Paper's commitment to avoid retro-fitting which is technically difficult and far more expensive than early implementation of low carbon technology and landscaping enabling sequestration of greenhouse gases. Design codes and planning guidance must therefore be more ambitious and Founded on a robust evidence base and appropriately monitored to ensure that it is real and not a paper exercise.

Planning reforms should explore how renewable energy forms can be incorporated to allow the rural economy to adapt to the challenges presented by climate change, whilst managing

conflicts between the use of land for growing food, providing residential development and generating sustainable forms of energy.

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

The County Council would like to see the details behind this proposal, to ensure that there will be proper consideration of ecology in the planning process. The proposed reforms must guarantee that local planning authorities have the ability to fully assess the impacts on habitats and species of local importance (see Stodmarsh Nature Reserve in the response to Q7(a) as to why this is so important). The statement, '*enhancing the most valuable and important habitats and species in England*', suggests that reduced consideration will be given to locally important habitats and species. Planning applications will also need to implement the mitigation hierarchy.

There needs to be a requirement on the applicant to ensure that information is provided in a timely manner to enable review and consideration in the Local Plan process and at the start of the planning application stage in order to allow for proper assessment of environmental impacts of development on the natural environment. The consideration of impacts collectively rather than individually can be beneficial and ecosystem services is a good example of this approach.

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

The County Council supports the White Paper's commitment to explore whether there are new and better ways of securing consent for routine works to enable local authorities to concentrate on conserving and enhancing the most important historic buildings.

The planning reforms must ensure the appropriate protection and enhancement of the historic environment in the delivery of sustainable growth. They will also need to recognise that the vast majority of the historic environment is made up of non-designated heritage assets, buildings and landscapes which make local areas beautiful and special.

Local Plans

The White Paper states that Local Plans should identify the heritage assets in the plan area, but the County Council requests clarity as to who will identify the heritage assets. Local planning authorities have taken different views on the NPPF advice, with some taking the view that only those included in a list of local assets qualify, whilst others (including archaeological curators) have taken the view that any historic or archaeological feature is a heritage asset, albeit with differing levels of significance. It is recognised that it is unlikely that all local heritage assets can be shown in a Local Plan, not least because the process of identification is ongoing and, in some cases (e.g. archaeological sites) may only be identified through site investigation. The reforms must ensure that the definition of heritage assets is

not too restrictive, and provision must be made for the discovery of new assets or a change in the appreciation of the significance of assets during the development process.

It is not clear how a heritage asset located in a growth or renewal area will be appropriately protected. The reforms must recognise that not all heritage assets are known about, and how the setting of height requirements or parameters would properly consider the setting of heritage assets.

The reforms should strengthen the protections for locally listed buildings that have been identified by the Local Planning Authority in the Local Plan and especially those that are not statutorily 'listed' by Historic England. This is to ensure that they cannot be demolished through permitted development in Growth or Renewal areas, without the appropriate consideration of their reuse or adaption by the Local Planning Authority and to ensure compatibility with the reforms proposals to protect the historic environment and create beautiful places rooted in local culture and distinctiveness.

The County Council recommends that the reforms also recognise that, at the stage of Local Plan making, it is not normally possible to identify previously unrecorded non-designated archaeological sites without field evaluation.

The County Council considers that archaeological evaluation must be considered early in the plan making process. When unexpected archaeology is discovered, it can lead to delays as well as the redesigning of development. The County Council requests clarity as to why Areas of Archaeological Importance (such as Bath and Chester) or Scheduled Monuments have not been considered within the White Paper.

Revisions

Reforming the planning system provides an opportunity to review grade listings to ensure they are up to date, defining what is covered and what is important. This would also provide a chance to remove assets from the list that no longer meet the criteria. There should be consideration of the removal of VAT for heritage repairs, perhaps to act as an incentive for protecting heritage assets.

The reforms should ensure that Local Planning Authorities have a local list of non-designated heritage assets and that conservation areas are reviewed every 5-10 years. This will ensure that up to date data is available to developers. To provide this level of data, appropriate funding will be required.

The County Council requests clarity as to the future of the Planning (Listed Buildings and Conservation Areas) Act 1990. If the Act was to be revised, whilst the level of protection should remain embedded, there is an opportunity to update aspects such as enforcement powers and Local Planning Authorities' powers regarding notices for buildings at risk. The County Council would like to see the reforms strengthening and simplifying these powers to ensure their effective use.

Energy efficiency improvements

The reforms would enable certain energy efficiency improvements without requiring Listed building consent – this could be positive, but it would need to be led by appropriate specialists and experts. Historic buildings require different energy efficiency measures to ensure their fabric is not compromised by sealing in damp or creating fire risk. There would need to be safeguards in place to ensure that significant fabric that is being replaced or removed is appropriately recorded rather than destroyed without record.

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

The County Council supports the Government's ambition to reduce carbon emissions in new homes. The proposed standard sets out how emissions from new homes would be reduced by between 75% and 80% by 2025 compared to current levels. However, the urgent implementation of a full net-zero carbon standard for new homes is essential in order to successfully eliminate emissions from the domestic sector. The County Council would therefore like to see more ambitious energy efficiency standards that ensure net-zero carbon emissions from new homes before 2030. Such a standard will help to ensure that new homes in Kent are suitable for a Net Zero future and will prevent the need for costly retrofit at a later date. KCC supports the ambition for no new homes delivered under the new system needing to be retrofitted.

There should also be recognition of current guidance and research. Historic England has produced guidance ('Climate Change and the Historic Environment', 2008) that reviews the threats to the historic environment posed by climate change (more recent guidance can also be found in 'Climate Change Adaptation Report' (Historic England, 2016)). The guidance demonstrates that historic structures, settlements, and landscapes can in fact be more resilient in the face of climate change and more energy efficient than more modern structures and settlements. This has also been updated in the Historic England report; 'There's no Place Like Old Homes: re-use and Recycle to Reduce Carbon' (Historic England 2019).

Pillar Three—Planning for infrastructure and connected places

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

Sustainable, well designed, resilient and future-proofed communities are successfully achieved when supporting infrastructure can be resourced and put in place, where necessary ahead of, housing growth. The provision of the right infrastructure at the right time will also ensure that development proactively responds to challenges presented by climate change, with a shift towards sustainable means of transport and a net-zero approach to development, and with a focus on wider sustainability issues helping to ensure that a balanced approach to development is taken. The provision of the right services and infrastructure is therefore a priority for the County Council and taking an “Infrastructure First” approach is key to ensuring that this is achieved.

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

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

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

The White Paper’s statement that “necessary infrastructure and affordable housing alongside new development is central to our vision for the planning system” is endorsed by the County Council, as is the government’s ambition to deliver more of the required infrastructure by capturing a greater share of the uplift in land value.

However, the County Council has marked the ‘**not sure**’ option in response to this question, as there is currently insufficient detail within the White Paper to be able to comment comprehensively or in a properly informed way on the Infrastructure Levy.

The County Council, in its role as a statutory infrastructure and service provider, would first like to highlight the fundamental areas of importance for the introduction of any mechanism. For new settlements to become desirable places to live that contribute to improved physical and mental health, they should provide the opportunity to creatively respond to some of the wider problems. This includes being planned and designed to cater for a growing ageing population, climate change, economic growth and health needs, as well as delivering all the necessary infrastructure and services for the residents. To do this, it is essential that the uplift from the land can be secured from development in a timely and effective manner.

The County Council’s ‘Infrastructure First’ approach to development looks to ensure the upfront investment and delivery of necessary infrastructure to support high quality growth. In order to achieve this, it is crucial for the reformed system to ensure that the right level of risk is balanced out between the developer and local authorities and, that in terms of development economics, as much certainty as possible is provided for both the public and private sectors in order to mitigate risk - financially, socially or otherwise. KCC’s response to question 22(d) raises some concerns in respect of allowing local authorities to borrow against the Infrastructure Levy in this respect.

It is essential that the delivery of key infrastructure is de-risked for County Councils and one way to achieve this would be for the Treasury to pool money for local authorities to borrow against.

If Government took on a banker role, this could also improve cashflow for developers and give local authorities the certainty they need to borrow against future contributions. With local authority budgets already enormously stretched, any extra risk would make it impossible to finance and would threaten the delivery of key infrastructure for new communities, particularly for large, strategic sites.

It is worth also emphasising that a lot of the critical infrastructure needed for growth is delivered by upper tier authorities. This relates both to strategic and local infrastructure and can include new roads, nurseries, primary and secondary schools, special education needs, adult social care services, public health services, waste facilities, libraries, adult education, highways infrastructure, as well as services for people with physical and learning disabilities and older people.

Whilst not an exact science, the reality is that this provision of strategic infrastructure does demand a considerable proportion of the overall infrastructure monies. It is therefore critical for local authorities and developers to have certainty around the timing, nature and level of payment, but it is also essential to avoid a trickle effect, which makes funding large pieces of infrastructure, particularly for major strategic sites, extremely challenging. It is suggested that installment schemes with some form of final equalisation mechanism (rather than a 100% end payment) could help to provide more certainty for infrastructure delivery.

The proposed reform is to introduce an Infrastructure Levy looks to completely dismantle the current developer contribution mechanisms delivered through section 106 agreements and the Community Infrastructure Levy (CIL) and replace it with a new system. However, it has very little meaningful information to explain how a consolidated Infrastructure Levy would operate and this is a real concern. To remove section 106 agreements and the CIL is a fundamental shift and the proposed new system is being proposed in extremely vague terms.

It is not clear how a nationally set value-based rate would be set as a fixed proportion of the value of development above a set threshold. Significantly, there is also no indication as to who would be the 'charging authority', and aside from stating that revenues would continue to be collected and spent locally, there is no clarity on how would the Levy be distributed or what this would mean for county councils in particular.

The White Paper also states that it will consider the impact of the change on areas with lower land values and there is a real concern that low land value areas will miss out on necessary infrastructure. Currently, section 106 contributions can be a huge help in mitigating development and contributing to necessary infrastructure, but it is not clear from the White Paper whether the proposed Levy system will be capable of generating the necessary amounts of funding required to deliver essential supporting infrastructure.

Section 106 agreements and their role in mitigation: The loss of section 106 agreements is a big concern. Section 106 agreements are still required to provide essential on-site infrastructure such as schools and including, significantly, the transfer of land/sites at nil cost. Indeed, there are a range of mitigation measures (including non-financial mitigation measures) that are secured using this mechanism and without it, there is nothing to explain how the on-site mitigation would then be secured. This could also affect the ability to deliver a number of crucial benefits and mitigation that flow from mineral and waste development (typically public access or biodiversity gain from the restoration of mineral and landfill sites),

or for the implementation, maintenance and management obligations for surface water drainage systems - just two of many examples. The County Council would strongly discourage the abandonment of the section 106 contributions mechanism unless a tested, workable and robust mechanism has been put forward as an alternative.

Splitting up big sites: The White Paper proposes to require that big building sites are to be shared between developers. It is not clear from the document what size site is being referred to when they are to be divided between developers, or whether equalisation agreements will be required between the developers rather than the local planning authorities having to find a way to address issues.

Charging the Infrastructure Levy at the point of occupation: The White Paper states that Infrastructure Levy payments could be paid on the final value of the scheme, once it is occupied. There is no definition as to what is meant by “occupied” but (if KCC had to choose between the two options) KCC would strongly request that it is at the point of first occupation, rather than at full occupation (with perhaps some form of equalisation mechanism, as referred to above). ‘At the point of full occupation’ could raise significant issues - for instance, it is not clear what would happen if developers leave one property vacant for twenty years. Also, small developments of say ten units will need to be treated differently to large sites of say 5000 homes, which will take often a significant number of years to be occupied.

Nevertheless, significant concerns are also raised more widely with the Infrastructure Levy being applied at the point of occupation. In many instances, it is crucial for infrastructure and services to be installed and provided before occupation of the developments. The White Paper leans heavily on enabling local authorities to borrow against the Infrastructure Levy to address this issue, but, as KCC sets out in response to question 22(d), this is not a solution and will not effectively enable the delivery of the essential infrastructure for sustainable communities at the right time, which can often mean before the houses are built.

Value of development and level of threshold: It is imperative that the essential infrastructure required to support development is provided. If this supporting infrastructure cannot be provided, the development will struggle to be sustainable and will potentially cause severe disruption for communities, with consequences for existing schools, hospitals, transport infrastructure and other local services. Concerns are therefore raised with the prospect of the Levy not being charged if the value of development is below the threshold. If a development becomes unviable due to the cost of the Infrastructure Levy being sought, there is a question as to whether the development is sustainable and should go ahead.

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**/ Not sure]*

The County Council notes that comments are being requested without any evidence having been provided to demonstrate why a nationally set rate (or indeed locally set rates) as proposed would raise more than current section 106 or CIL mechanisms.

It is not clear how the Infrastructure Levy rate is to be set, or indeed which body would be the charging/administrative authority, or how the Levy will be distributed. In particular, it is not clear how county councils would receive contributions or contribute requests to the list of asks from the Levy given the enormity of their task in delivery a range of critical infrastructure pieces and services for new development (circa 70% of section 106/CIL is currently required for the County Council’s main functions of Highways and Education).

KCC would seek clarity on exactly what is meant by a “nationally-set value-based flat rate”. The obvious significant risk relates to cash flow and what KCC’s obligations are to forward fund essential infrastructure such as schools (which is an existing and increasingly prominent risk for KCC).

A ‘national single rate’ would potentially disadvantage low value and higher value areas. A local rate would be preferable and more equitable but should not in any way be allowed to be set/constructed to the detriment of essential statutory services, such as education and social services. Applying a local based rate would enable the Levy system to account for regional variation of land values and ensure development is economically viable.

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.]

The County Council would reiterate its concern that comments are requested without any evidence published to demonstrate how this nationally set Infrastructure Levy would raise more than current section 106 or CIL mechanisms.

The current mechanism for the CIL is complicated and fundamentally does not fully address the issue of infrastructure funding and can often be to the detriment of the provision of essential and strategic infrastructure, such as education. This creates significant additional financial pressure on providers of statutory services and in particular, county councils. The current section 106 system, whilst not perfect, does work well. The funding that is able to be secured for essential infrastructure and statutory services through the CIL, however, can be seriously inadequate and consequently, there is often a significant reliance on the use of section 106 agreements, particularly for major or strategic sites. It will be critical for the new Infrastructure Levy to generate sufficient infrastructure funds if both these mechanisms are to be abolished.

The County Council would like to highlight its concern around the potential consequences of retaining the neighbourhood contribution under the Infrastructure Levy. It is understood that the proposed Infrastructure Levy would look to retain/incorporate the equivalent of the existing CIL 25% neighbourhood contribution, which currently enables parishes to allocate CIL receipts directly from development in their area, with relatively limited oversight as to how this is used.

The impact of this is heightened however, if section 106 agreements (as well as CIL) are to be abolished, as it will potentially significantly increase the amount of funding that is ringfenced for parishes, whilst reducing the overall amount available for infrastructure. Particularly where viability is already an issue, this will potentially have a major impact on deliverability of essential community infrastructure such as schools

Should an Infrastructure Levy be introduced, the County Council strongly recommends that the Levy should aim to capture more than the current mechanisms tend to allow, to support greater investment in the infrastructure (and for greater range of necessary infrastructure such as waste) that is essential to support growth and deliver sustainable and future proofed communities.

It is also of note that the minerals and waste industry is already liable for additional development levies in the form of the aggregate levy and the landfill tax. How this will work alongside an Infrastructure Levy is unclear.

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.]*

Whilst the County Council does not object to enabling local authorities to borrow against the Infrastructure Levy, this should not be seen as the answer to ensuring or guaranteeing the timely delivery of necessary infrastructure. Government is strongly urged to consider the risks associated with this approach, and not increase the risk further through the uncertainty of future income (which would be the case if payment is on (first or last) occupation of development, and dependent on the value of development).

Often, the current system results in delivery of essential infrastructure potentially being delayed, due to delays in development coming forward (for a variety of reasons including market forces). Consequently, local authorities are often expected to forward fund and cover borrowing costs or seek additional grant funding for the shortages until they are recovered.

A flaw in the current system is that the need to accumulate contributions (whether the CIL or section 106 agreements) can result in infrastructure being provided later than is required, with funding gaps arising when there are delays in development coming forward and local authorities (often the county councils) have to cover borrowing costs or seek additional grant funding for the shortages. It is not reasonable or feasible to rely on increased borrowing against the Infrastructure Levy to fix this problem.

Suggesting the full 100% should be paid on occupation and that local authorities can (and should) borrow against the expected Infrastructure Levy receipts is a step too far, unless the government provides some kind of funding pool to mitigate the risk for local authorities. This proposal is particularly contentious given that the final Levy amount is not known and will be subject to market volatility, along with ongoing issues regarding viability and delivery being entirely market/commercially driven. Without knowing who would control an Infrastructure Levy pot, there is a potentially increased risk of borrowing against the Levy if the rules allow developers to cease development before being “fully occupied”. There is therefore concern around risks that would be associated with borrowing against an Infrastructure Levy when housing delivery is uncertain.

Further clarity is also required in respect of how any loans taken out by local authorities might be affected, should developers subsequently seek amendments to their consents, such that previously agreed developer contributions are reduced or removed.

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

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

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

There is support for the Infrastructure Levy to be extended to capture changes of use through permitted development rights, which have an impact on local infrastructure and services.

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

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

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

As a County Council, KCC is not directly involved in the delivery of affordable housing. Nevertheless, the County Council firmly believes that all Kent residents should have an opportunity to live in good quality and affordable housing and recognises its key role in the wide range of responsibilities working closely with other authorities. Kent County Council's Select Committee on Affordable Housing reported earlier this year with a series of recommendations around infrastructure, joint working, land and finance to support the delivery of affordable housing in the county. Most prominent of these was for the establishment of a Housing Growth Unit to work with the industry and districts, promoting collaboration and streamlined working, bidding for new funds and supporting research and best practice. The unit would provide a single point of access to functions relating to housing in KCC. A full response to the recommendations, including the creation of a Housing Growth Unit, is expected later this year.

The County Council would however like to comment in respect of the impact of the proposal on overall infrastructure funding and particularly in respect of ensuring that upper tier authorities are able to secure monies for its key services. KCC is operating in an already very challenging financial environment and within this context, the overriding concern is that this proposal does not further exacerbate the problems in securing appropriate levels of infrastructure funding for vital community services. Therefore, whilst the County Council is in support, in principle, to this White Paper proposal, it should not be to the detriment of securing funding for essential community infrastructure such as education.

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

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

The County Council's fundamental position is that, whilst fully supporting the need to provide affordable housing, this should not be in any way be to the detriment of adequate funding for essential community infrastructure such as schools.

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

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

The County Council would defer to district and borough councils to respond to this question.

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

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

No comments.

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

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

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

The County Council supports the proposal for local authorities to have fewer restrictions over how they spend the Infrastructure Levy, provided that statutory services and key infrastructure should first be protected and prioritised.

However, the County Council raises doubt as to whether the Infrastructure Levy would raise enough revenue to cover the costs for affordable housing and infrastructure (without even taking into account White Paper suggestions that it will also contribute to the costs of planning services and to fund neighbourhood projects).

The County Council currently secures contributions for primary and secondary education, communities, highways infrastructure, waste, adult social care, as well as services for people with physical and learning disabilities and older people. There is a need for an Infrastructure Levy to ensure that proposals secure, at least, adequate funding for essential infrastructure to support growth, that statutory services do not suffer through lack of capacity and that pressure on existing services is mitigated.

The County Council would also emphasise the wide range of infrastructure and service provision, that goes beyond schools and roads, typically associated with County Council provision, that must be captured when planning for growth – in addition to those services mentioned above – but that also must be factored into any new system.

Emergency planning and resilience measures: There is an increasing need for new infrastructure to be resilient to severe weather and other challenges. The additional burden upon resilience and emergency planning, response and recovery must be acknowledged, with the new levy system being set up to enable the additional contingency planning burden arising from development within potentially vulnerable locations and an increasing local population.

Heritage: The current possibility of pre-determining the assessment of archaeological heritage would seem to be made much more difficult by the proposed reforms. One way to offset this might be to include archaeological and other assessments in the new Infrastructure Levy. This happens in France at present, where a charge of 0.5 euros/m² is taken from all non-householder developments and used to fund archaeological work carried out as part of development proposals. This sort of approach might allow more detailed evaluation and assessment prior to allocation of land.

Many of the development proposals will have an impact on archaeological remains. These remains constitute a key, irreplaceable component of the historic environment, being tangible survivals of the county's heritage. The Framework fully recognises the importance of this resource (paragraph 199). The archaeological 'archive' includes a sample of the most significant finds and records from the excavation. It allows researchers to assess aspects of the excavation even many years after the event; schools and community groups to investigate their local heritage and is a way to connect the now-lost heritage to the modern community. In most counties in England, these archives are deposited in local museums, many of which are at capacity meaning that some archives are left in inappropriate and insecure locations. The need for proper archaeological storage for these materials within education and community accessible facilities is critical for the continued proper understanding of the heritage of Kent. The Infrastructure Levy could be used to provide for initial set up costs and facilities for community / education use to ensure appropriate archaeological archives available are available and accessible for the community.

Biodiversity: Biodiversity must be considered on both a local and strategic scale to ensure the connectivity of sites across boundaries and there is need to ensure there is monies available to support both. The County Council draws attention to the Strategic Access Management and Monitoring Strategy (SAMMS) (a payment for recreational impact on wintering birds within Special Protection Areas (SPAs) is set up in perpetuity) and the District Level Licencing for Great Crested Newts. These strategic approaches allow for payments to be made to the local planning authority and should continue but with assurances that funds are ring fenced for appropriate measures. These will need to sit alongside the forthcoming proposals for Biodiversity Net Gain, which will require funding over a number of years (once implemented via the Environment Act).

Developments in AONBs: There also needs to be funding set aside for off-site green infrastructure and mitigation and enhancement of the AONB where development is in or on the boundary of the AONB; the value of development within the AONB and close to its boundary is higher than elsewhere and a proportion of this added value could be set aside for this purpose. This is considered appropriate, as new development in proximity to the AONB is likely to result in increased usage of it.

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

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

There is very limited information given to explain how the ring-fence would work. Sustainable infrastructure must be delivered alongside (but preferably ahead of) any growth in housing. It is vital that adequate infrastructure is planned for, funded and delivered to support delivery and there is concern over how this could be delivered with affordable housing ring-fenced within the Infrastructure Levy monies as well. KCC requests further information on this point to consider properly.

Proposal 23: As we develop our final proposals for this new planning system, we will develop a comprehensive resources and skills strategy for the planning sector to support the implementation of our reforms.

The County Council welcomes the recognition for the need of a resources and skills strategy to ensure the effective running of the planning service, as well as a review of planning fees, which is required imminently.

Currently, the cost of development management activities is, to an extent, covered by planning fees, but the fee structure means the cost of processing some applications can be significantly greater than their individual fee. This is particularly the case for mineral and waste developments that are determined by the County Council (it is not uncommon for technical advice on a simple waste application to cost more than the planning fee). The cost of preparing Local Plans and enforcement is also largely totally funded from a local planning authority's own resource.

There will be a high financial cost for the implementation of all the new reforms and ways of working, but no proper indication is provided as to how the proposed combination of a slice of the Infrastructure Levy and nationally based planning fees would cover costs. There is concern that the fees proposals put forward will fail to adequately cover the full costs of running the expectations of the new planning service and this lack of funding will have serious implications on the capacity of the service to deliver the wide range of functions of the service. The County Council is doubtful around how effective the Infrastructure Levy could be in contributing to the costs of planning departments, given the multiple other demands there will be on monies. There is concern that it is unlikely that the Infrastructure Levy would make up for the loss of funding mechanisms such as Planning Performance Agreements and pre-application advice charges, but these income streams are not mentioned in the White Paper. Clarity is required on this, in discussion with local planning authorities.

The County Council would welcome engagement on the development of a resourcing and skills framework which seeks to deliver a highly digitalised planning service to ensure that its planning services are upskilled and resourced appropriately.

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

The County Council would welcome engagement to review and strengthen the existing planning enforcement powers to ensure they are effectively implemented in practice. The protection of the environment and infrastructure against unlawful development should form an integral part of these planning reforms. Overall, the County Council would like to see more powers being given to local authorities to address intentional unauthorised development and higher fines and further mechanisms to support more enforcement activity. In particular, the County Council would welcome reforms to deliver effective waste planning powers to address significant unauthorised waste development. The current controls available to County Councils are outdated and fail to match those available to the Environment Agency or even those that have far less impact i.e. works affecting a protected tree which provides immediate prosecution powers. The lack of direct prosecution powers and the risk of punitive compensation severely constrains responses to waste contraventions. Having no access to HMRC and its Landfill Tax Avoidance powers is also a major disparity within the public regulatory system.

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.

The County Council would recommend that the government must ensure that proposals secure, at least, adequate funding for essential infrastructure to support growth, that

statutory services do not suffer through lack of capacity and that pressure on existing services is mitigated.

KCC currently actively secures contributions for a range of services, including primary and secondary education, communities, and adult social care, and including services for people with physical and learning disabilities and older people. Any further pressure on service delivery (financially or otherwise) will detriment people with certain protected characteristics (Age, Maternity, and Disability in particular) - potentially first and foremost.