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Growth and Communities

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2nd March 2023

Dear Sir/Madam,

Re: Levelling up and Regeneration Bill: Reforms to National Planning Policy

Kent County Council would like to thank you for the opportunity to comment on the planning reforms.

Kent County Council has long supported the Government's growth ambitions and is in support of the proposals to improve the planning system. However, the County Council would like to take the opportunity to express its concerns on some of the proposed changes, with the intention of ensuring that they would be recognised and addressed through the National Planning Policy Framework (NPPF) changes and the amended Levelling-Up and Regeneration Bill.

Firstly, the County Council would like to make it clear that whilst it is supportive of the Government's growth ambitions, they must be supported by the appropriate and timely delivery of infrastructure. There has been a significant amount of growth across Kent which has not been supported nor enhanced by infrastructure. This is due in the main to a lack of funding, development viability issues and a planning system that does not currently work. The County Council would therefore ask that the national legislation and guidance set out in the Bill and the NPPF, help the County Council to deliver its Infrastructure First approach to housing and economic growth. This will ensure that growth will be properly supported and benefit existing and future residents, communities and businesses across Kent.

Secondly, the current situation with Developer Contributions, including the Community Infrastructure Levy, does not provide adequate infrastructure and at the right time to support growth in Kent. The County Council is therefore concerned that the proposed changes, namely the Infrastructure Levy will potentially secure less funding - if ever- that is necessary to unlock economic and housing growth in Kent.

Thirdly, the County Council is extremely concerned that the proposed changes being brought forward, do not lay out a clear role for county councils. The changes do not help the County Council to support the new and existing communities by providing appropriate local and strategic infrastructure to support good growth or to support long term county wide strategic planning.

Fourthly, the loss of the Duty to Co-operate (a legal test) and its replacement with an 'Alignment Policy' appears to further water down the role for county council's. We would therefore ask that the new legislation would make such a role clear and to recognise the county council's as sub-national strategic plan makers and also as a critical co-ordinator and deliverer of infrastructure and services.

Finally, the County Council would also like to highlight that some of the changes proposed, such as bringing forward Local Plans, understanding Carbon Assessments and dealing with irresponsible behaviour will mean that Local Authorities will need to be far better resourced with funding and training. The County Council therefore asks that this is recognised and provided for in any further changes that come forward.

Our approach is good growth with the right infrastructure first and we would ask that this is fully recognised, reinforced, and reflected in all legislation coming forward.

Yours sincerely,



Simon Jones
Corporate Director of Growth, Environment and Transport

Kent County Council's Response to the Governments reforms to National Planning Policy

The County Council is supportive of growth and an effective plan led system and therefore appreciates the opportunity to be able to comment on the proposed changes.

The County Council has provided comments on the Consultation below:

Chapter 1 – Introduction

Within the introductory narrative there is an emphasis upon creating 'beautiful, homes and new neighbourhoods. The County Council would ask that this focus be widened and therefore look to create beautiful, well-designed spaces, which are resilient to climate change and to support new and existing communities. The County Council is a strong advocate for an infrastructure first approach to development and would recommend that it be made clear in national policy that all growth must be supported by necessary infrastructure, which is planned for, funded and delivered in a timely manner. Well-designed growth must also deliver multifunctional green and blue infrastructure with wide ranging social and environmental benefits.

The County Council continues to draw attention to the need for balanced growth, where infrastructure is delivered alongside housing growth and to support employment opportunities. Reforms should therefore not only focus on the delivery of new housing.

The specific reference to onshore wind within the introductory narrative is noted and a question is raised as to why this is the only form of renewable energy that is referenced in this introductory section. The County Council would ask that a balance of renewable energy sources in appropriate locations should be considered alongside the option of nuclear energy.

Chapter 2 – Policy Objectives

The County Council is an advocate of the infrastructure first approach to growth. Infrastructure required to support development should be planned for, funded and delivered in a timely manner, ahead of housing growth where required. This covers both local infrastructure as well as strategic infrastructure. The County Council would draw attention to the broad range of infrastructure requirements needed to support sustainable growth – which must include education, roads, waste, blue and green infrastructure and should include the appropriate utility infrastructure. There are clear issues with utility infrastructure to support development in Kent, notably to provide water to serve properties and for water drainage. Infrastructure must be delivered to be resilient to challenges faced by communities from climate change and other challenges.

It is noted that the third objective, refers to 'refusing ugliness.' The County Council would ask that this should instead refer to poorly designed, so that it follows on and relates better to the aim of the document to support good design. Growth should be durable and resilient to climate change and other future challenges, while utilising rapidly evolving renewables and energy efficiency technology and design.

In the development of a local plan, especially within the swift timeframes proposed through the Levelling-Up and Regeneration Bill (hereafter referred to as The Bill), there is need to ensure that effective engagement takes place with communities as well as with statutory and non-statutory consultees. The role of local elected representatives should be considered through policy, where they are able to engage with local communities around proposed growth.

The County Council also supports the embedding of the important reforms introduced by the Environment Act 2021 into the National Planning Policy Framework (NPPF), ensuring the climate and environmental challenges being faced are addressed holistically through growth. The natural environment should play a key role in delivering beautiful, well-designed places in both urban and rural areas with the impact of growth on the environment recognised.

Chapter 3 – Providing certainty through local and neighbourhood plans.

Reforming the 5-year housing land supply (5YHLS)

- 1. Do you agree that local planning authorities should not have to continually demonstrate a deliverable 5-year housing land supply (5YHLS) as long as the housing requirement set out in its strategic policies is less than 5 years old?**

The County Council agrees with the proposal as this could support Local Planning Authorities by helping to provide a greater justification and additional emphasis for Local Plans. The quicker adoption of Local Plans provides far greater certainty for local communities and assists the County Council in its role in the strategic planning of essential infrastructure.

However, the County Council would be concerned if there was no consistency in needing to provide a deliverable supply of housing. This is because there is a great need for housing in the Southeast, which provides funding towards much needed Infrastructure. If the housing supply decreases or is not consistent across the County, it will become difficult to plan and could impact on the provision of improving infrastructure for future and existing residents.

This new proposal could provide greater uncertainty as to how many houses would be built which makes it difficult to plan strategically across the County. The County Council would therefore still ask that there is some certainty over housing supply and therefore the growth that can be planned.

- 2. Do you agree that buffers should not be required as part of 5YHLS calculations (this includes the 20% buffer as applied by the Housing Delivery Test)?**

The County Council has no objection in principle to removing the housing buffers. However, there are many sites allocated in Local Plans that never come forward due to land ownership, viability or other issues. Removing the buffer could result in less housing being built to meet the needs of the Districts or Parishes.

Again, if the amount of housing significantly decreases, it is difficult for the County Council to predict or plan for unknown levels of growth. The County Council would ask that for a Local Plan, where some of the allocated sites fail, that a limit is set and further housing must be

provided as part of the review of the Local Plan. This will provide some assurance that housing will be provided and enable the County Council to continue to plan for growth.

3. Should an oversupply of homes early in a plan period be taken into consideration when calculating a 5YHLS later on or is there an alternative approach that is preferable?

The County Council has no objection in principle to this but would ask that whatever is put in place allows the County Council to understand and plan for growth in the county. If the policy changed, and this encouraged all the housing to come through in the early stages of a Local Plan, it would be difficult to provide the appropriate infrastructure to support this growth. An approach which allowed for planned and gradual growth would be easier to predict and plan for and deliver.

4. What should any planning guidance dealing with oversupply and undersupply say?

As the County Council would like to predict and manage growth in the County, a significant over or under supply can make development and the infrastructure to support it difficult to plan for. It is suggested that oversupply and under supply is limited to ensure that the housing growth is more predictable and easier to plan for.

Boosting the status of Neighbourhood Plans

5. Do you have any views about the potential changes to paragraph 14 of the existing Framework and increasing the protection given to neighbourhood plans?

The County Council supports the proposal to lengthen the time afforded to the protection of Neighbourhood Plans, regardless of whether the Local Plan is out of date. The production of these plans have significant resource implications for all levels of local authority and the extension of time will bring greater certainty and reward for those communities that have invested in them. The increase in time will also ensure that communities are not unduly penalised for any failings of its Local Planning Authority to adopt a Local Plan within the prescribed period.

It should be noted that, whilst welcomed, the changes are likely to encourage a greater number of communities to produce neighbourhood plans and in doing so would create pressure of resourcing for District and County Authorities. The County Council also note that there are considerable differences in the quality of neighbourhood plans with some seeking to prevent development and others making clear and well-planned documents. The County Council would therefore ask that there be clearer guidance for Neighbourhood Plans, that improve their quality across the country. This would also increase their value and make them worthy of having greater protection.

Chapter 4 – Planning for Housing

6. Do you agree that the opening chapters of the Framework should be revised to be clearer about the importance of planning for the homes and other development our communities need?

All Local Plans tend to focus on housing provision and the allocation of housing development as this has the biggest impact on a local area. The County Council considers that this needs to be balanced against the other economic, social and environmental objectives. Whilst the importance of housing needs to be made clear, it would be helpful to understand how the Government sees the other priorities, in particular the provision of infrastructure to support this housing and other growth coming forward.

The County Council also recommends that the opening chapters should be extended by reference to the importance of strategic infrastructure such as facilities that manage waste. The safeguarding of waste management facilities should also be considered, to avoid any impact on existing facilities, upon which the local waste planning system may currently rely.

Local housing need and the standard method

7. What are your views on the implications these changes may have on plan-making and housing supply?

The County Council notes that the consultation is not seeking to amend the standard methodology through this consultation but commits to a review of the implications of the household projections data which is due to be published in 2024 and based on the 2021 census. The County Council would draw attention to the potential impact that this would have on plan making authorities and would recommend that this review is carried out as soon as practically possible.

The County Council, as a key infrastructure provider, would welcome clarifications around when local constraints can be taken into account, when bringing forward a plan that does not meet local housing need. The County Council recognises that in some areas which are highly constrained by environmental designations, including AONB and Green Belt, that this may result in less housing being delivered. However, with the current uncertainties around this issue, the County Council faces challenges in ensuring the necessary provision of strategic infrastructure is planned for and secured accordingly.

Introducing new flexibilities to meeting housing needs

Using an alternative method

8. Do you agree that policy and guidance should be clearer on what may constitute an exceptional circumstance for the use of an alternative approach for assessing local housing needs? Are there other issues we should consider alongside those set out above?

The County Council agrees that policy and guidance on what may constitute exceptional circumstances should be made clearer as this will make it easier to predict when this may occur and will make it more consistent across the County. It is agreed where there is a large elderly population or student accommodation that the infrastructure requirements and

resulting provision may be different so if the proposed housing is better understood, it could make it easier to plan for.

The County Council would like it noted that even if housing of all types is required or whether it is dominated by one use, infrastructure would still need to be planned and provided. The County Council would ask that this be taken into account when drafting policies.

9. Do you agree that national policy should make clear that Green Belt does not need to be reviewed or altered when making plans, that building at densities significantly out of character with an existing area may be considered in assessing whether housing need can be met, and that past over-supply may be taken into account?

The County Council would support greater clarity in respect of the Green Belt when making plans to ensure a better understood and more consistent approach and support for areas which have a high level of Green Belt. The County Council would also draw attention to the character of an area being a consideration in assessing whether housing need can be met to ensure that development remains appropriate to the context of an area. The County Council would also recommend that the provision of strategic and local infrastructure should also be a consideration. Strategic infrastructure needed to support growth within an area can be at a large scale and have cross boundary implications. The deliverability of necessary infrastructure must be a consideration when assessing whether housing need can be met.

10. Do you have views on what evidence local planning authorities should be expected to provide when making the case that need could only be met by building at densities significantly out of character with the existing area?

The County Council would be cautious regarding encouraging increased densities out of character with existing areas as this can impact upon the amenity of an area and put a clear strain on existing infrastructure namely schools, roads and health care. The County Council would suggest that additional to the current Environmental Impact Assessments (EIA) requirements, that the following should be evidenced.

1. New specific uplift design codes that compliment wider local design codes.
2. An assessment of the availability of necessary infrastructure (with the statutory authority responsible, if different) including a plan to address any requirement.
3. An assessment of the demand and availability of accessible public open space (taking consideration to the Public Health England paper "Improving access to greenspace. A new review for 2020") including a plan to address any requirement.

The evidence should be intended to demonstrate that the uplift is sustainable, mitigating risks of the creation of unhealthy communities whilst ensuring that the intensification of housing density has a corresponding intensification of necessary infrastructure, such as education and community amenities. There is a risk of unintentional displacement which could result in existing sustainable communities becoming unsustainable.

Building at higher densities could also lead to overcrowding in areas that are already overcrowded. As the Government has a clear desire to improve air quality, implement open spaces (and access to them) and have some areas of lower density development, the

County Council does not see how this is in accordance with other priorities and would ask this is addressed in any amendments coming forward. The County Council would suggest that using the existing density as a marker is not necessarily appropriate, instead reference should be made to current quality of life and how to maintain / increase it.

The County Council would also suggest that an assessment on the impact of higher densities on the overall environment and on the character of the historic environment where relevant should be taken into account when assessing whether a density is appropriate.

11. Do you agree with removing the explicit requirement for plans to be ‘justified’, on the basis of delivering a more proportionate approach to examination?

The County Council appreciates that the removal of the explicit requirement for plans to be justified is to deliver a more proportionate approach to examination. The County Council is aware of the significant level of evidence which is provided as part of a local plan examination, noting that there are sometimes challenges for consultees to digest, understand and be able to respond to the significant level of detail submitted as part of a local plan examination. However, it is not clear what impact removing the requirement for objective justification of plans would have on the plan-making process. The County Council is concerned that it is likely to cause confusion, create uncertainty, and lead to a departure from objective and reasoned plan-making, thereby increasing challenges at examination. This could result in additional expense and delay to the adoption of local plans. The preparation of local plans requires clear objective justification to gain community, industry and political support. The examination of ‘need’ for development and reasonable ‘alternatives’ are fundamental to proper planning for development.

It is suggested that the ‘Justified’ test should remain, but clarification should be provided as to what is to be considered a proportional evidence base and how it should be applied in differing circumstances. If the justification test is removed, clear guidance will be necessary setting out what plan making evidence an Inspector would require ensuring that local plans are sound.

The County Council is also concerned with the removal of paragraph 35 b) as it is important that plans include an assessment of the appropriate evidence, to ensure the impact of a Local Plan is fully understood.

12. Do you agree with our proposal to not apply revised tests of soundness to plans at more advanced stages of preparation? If no, which if any, plans should the revised tests apply to?

The County Council agrees with the proposal to not apply revised tests of soundness to plans which are at more advanced stages of preparation. It is, however, concerned that if the tests of soundness is lost altogether that there needs to be clear guidance as to what replaces it to make sure that the legal tests of a Local Plan are met.

Delivering the urban uplift

13. Do you agree that we should make a change to the Framework on the application of the urban uplift?

Although not applicable to the question being raised, the County Council notes that the removal of the Duty to Cooperate is covered within the corresponding paragraphs. The County Council is concerned with the proposed loss of Duty to Cooperate without an appropriate alternative mechanism being in place. The proposed new alignment policy needs to be clarified and also be legally binding, which at present, it does not appear to be.

The County Council considers that there is a clear strategic planning role for county councils to ensure that wider planning and infrastructure issues are addressed. This is especially prevalent where large developments are being proposed on district boundaries, with cross boundary growth and infrastructure concerns arising. This is where a holistic, strategic approach is required to ensure that development is supported by necessary infrastructure and that cross boundary growth is fully understood. The County Council would therefore urge clarity in the role of county councils within the planning process around Duty to Cooperate/alignment policy.

In respect of urban uplift, if this were to relate to a greater number of urban areas than those laid out in the consultation, the County Council would stress the continued need to ensure that new and existing communities have access to green spaces, providing opportunities to connect with nature whilst delivering multifunctional benefits including air quality improvements and surface water infiltration. It is also important that the infrastructure provision is understood and addressed to support growth in these areas.

The County Council also supports the response provided by the County Council Network regarding Spatial Planning, provided under question 15 and 53 in their response. This sets out the clear role of spatial planning in helping to support the Government's objectives.

14. What, if any, additional policy or guidance could the department provide which could help support authorities plan for more homes in urban areas where the uplift applies?

The County Council supports the delivery of homes in the most sustainable urban location where development can help reduce the need to travel. However, where density and housing growth is to be focused, there should also be an assessment of the current Infrastructure, to ensure the need is understood, how it is funded and how it can be delivered in a timely manner to support sustainable growth. Any urban uplift should include access to green and open spaces as well as a consideration of the quality of life offered by urban uplift areas for new and existing communities.

15. How, if at all, should neighbouring authorities consider the urban uplift applying, where part of those neighbouring authorities also functions as part of the wider economic, transport or housing market for the core town/city?

The County Council considers that this forms part of the County Council's role to understand the strategic implications of the urban uplift as part of the wider economic, transport and infrastructure needs for the town and city and the wider impacts. The County Council would

ask that the Government provides more of a role for County Council's regarding this element.

Enabling communities with plans already in the system to benefit from changes.

16. Do you agree with the proposed 4-year rolling land supply requirement for emerging plans, where work is needed to revise the plan to take account of revised national policy on addressing constraints and reflecting any past over-supply? If no, what approach should be taken, if any?

The County Council supports any proposal to reduce delays in the producing up to date local plans. It would however ask that any reduction in housing provision is justified and that the growth required is clearly understood in all Local Plans coming forward to enable a better planned strategic approach and infrastructure provision.

17. Do you consider that the additional guidance on constraints should apply to plans continuing to be prepared under the transitional arrangements set out in the existing Framework paragraph 220?

The County Council agrees subject to realistic timeframes being applied for the transitional arrangements.

Taking account of permissions granted in the Housing Delivery Test (HDT)

18. Do you support adding an additional permissions-based test that will 'switch off' the application of the presumption in favour of sustainable development where an authority can demonstrate sufficient permissions to meet its housing requirement?

The County Council does not object to this policy change but would ask that sufficient evidence be submitted to ensure that a Local Planning Authority has sufficient permissions in place.

19. Do you consider that the 115% 'switch-off' figure (required to turn off the presumption in favour of sustainable development Housing Delivery Test consequence) is appropriate?

The County Council has no comment.

20. Do you have views on a robust method for counting deliverable homes permissioned for these purposes?

The County Council has no comment.

21. What are your views on the right approach to applying Housing Delivery Test consequences pending the 2022 results?

The County Council has no comment.

Chapter 5 – A planning system for communities

More homes for social rent

- 22. Do you agree that the government should revise national planning policy to attach more weight to Social Rent in planning policies and decisions? If yes, do you have any specific suggestions on the best mechanisms for doing this?**

The County Council has no comment.

More older people's housing

- 23. Do you agree that we should amend existing paragraph 62 of the Framework to support the supply of specialist older people's housing?**

The County Council supports this proposal. The lack of such housing places considerable pressure on health and social care services. The availability of specially constructed accessible housing will assist in the long-term support and wellbeing of our ageing population. The County Council would suggest that if older people's housing is brought forward that there is some form of protection so that the housing either remains for that use in perpetuity or that there are clear tests that need to be met before the housing is lost. The County Council would also ask that the homes are built to the appropriate standard and sizing to ensure that they are fit for purpose and meet the needs of the community.

The County Council agrees that the need for quality older people's housing is going to significantly increase due to the national demographics. The County Council would ask that this housing specification should also include the appropriate infrastructure for this social group so that this can be planned and provided for. Any development would also need to be supported by investment in staff for sheltered housing/specialist requirement for such housing. The County Council would therefore also ask that this be taken into account when drafting the policies.

More small sites for small builders

- 24. Do you have views on the effectiveness of the existing small sites policy in the National Planning Policy Framework (set out in paragraph 69 of the existing Framework)?**

The County Council has no objection in principle to bringing small and medium sites forward. However, it is requested that the cumulative impact of this be brought into consideration. A large number of small and medium size sites in one area has the potential to put a strain on local services and infrastructure, so the County Council would ask that provisions be put in place that enable the infrastructure providers to be able to plan, understand and fund the infrastructure to support these forms of development.

The County Council also recognises the benefit that this form of development can bring in increasing densities in built up areas already supported by infrastructure and close to existing facilities, but would ask that this be balanced against the need to plan for growth.

25. How, if at all, do you think the policy could be strengthened to encourage greater use of small sites, especially those that will deliver high levels of affordable housing?

As above, the policy could be strengthened not just to provide affordable housing but the infrastructure to support it.

More community-led developments

26. Should the definition of “affordable housing for rent” in the Framework glossary be amended to make it easier for organisations that are not Registered Providers – in particular, community-led developers and almshouses – to develop new affordable homes?

The County Council is supportive of this policy but would recommend that clear definitions are provided to ensure that the policy is not abused.

27. Are there any changes that could be made to exception site policy that would make it easier for community groups to bring forward affordable housing?

The County Council has no comment.

28. Is there anything else that you think would help community groups in delivering affordable housing on exception sites?

The County Council has no comment.

29 Is there anything else national planning policy could do to support community-led developments?

The County Council would ask that the policy encourages the involvement of Local Planning Authorities and county councils who understand the needs of the community and can therefore assist these developments. A lot of local community schemes have the potential to impact the wider community and local infrastructure, which should be considered as part of these developments.

30 Do you agree in principle that an applicant’s past behaviour should be taken into account into decision making?

The County Council considers that the decision to grant planning permission should be based on whether the proposal is acceptable, does not cause harm to the surrounding amenities and is evidentially justified regardless of who may use or implement the permission.

The County Council is, however, nervous that placing the impact of poor behaviour within the decision-making process is likely to lead to significant litigation and uncertainty, which could lead to even longer development times. The County Council would suggest that if this is progressed that past failures to comply with legal obligations or conditions and any damage caused to third party property including that of statutory providers should be included within the scope.

The County Council also considers that the definition of “irresponsible behaviour” will require extensive detail to prevent loopholes. This includes both what would constitute irresponsible behaviour, whose behaviour is being considered and how long the irresponsible behaviour consideration should last and how would you address companies with an irresponsible behaviour consideration being taken over or merged with another. It is suggested that these details include failure to comply with previous application conditions; to engage with stakeholders/consultees as requested in application responses; provide and protect community facilities/amenities in a timely manner for existing and new residents amongst others.

The County Council understands the premise behind this proposal but is concerned that it is open to wide interpretation and may lead to tension between the local planning authority, applicants and local communities. Further detail, consideration and engagement is required prior to this being progressed. Furthermore, the proposal has significant further flaws as it fails to recognise that a planning consent for development of land generally runs with the land and not the operator or the developer. Land with permission for development may be passed on to other parties without any assessment of the new developer/operator’s past behaviour.

31 Of the two options above, what would be the most effective mechanism? Are there any alternative mechanisms?

The County Council notes that for either of the options to be implemented, there needs to be detailed consideration and engagement undertaken. A clear definition and understanding of what constitutes ‘irresponsible behaviour’ to address the matters above would be required so that a local planning authority has a clear and transparent mechanism by which to consider this matter.

Option 2 is considered by the County Council to be the most effective mechanism through which an application can be held until such a time as any complaint relating to a previous application by the applicant has satisfactorily resolved by either the Planning Authority or County Council depending on which authority has been affected. The above could include full cost recovery of planning enforcement notices or resources used by the Planning Authority or County Council to rectify any infringements that took place. Where the same offence has been committed by a developer on more than three occasions a proportionate fine could be charged.

It is also considered that applications received from applicants with ‘past irresponsible behaviour’ are more likely to arise from unauthorised development/breaches of conditions on a site. Improved financing of local authorities, to allow effective enforcement of breaches in planning legislation would be a more effective way of dealing with such situations.

More build out

32 Do you agree that the 3 build out policy measures that we propose to introduce through policy will help incentivise developers to build out more quickly? Do you have any comments on the design of these policy measures?

The County Council considers that the build out measures have the potential to incentivise developers, but they needs to be sensitively considered. Greater assurances on the pace of

delivery and occupancy will be of assistance to the County Council's strategic planning function to ensure that the essential infrastructure is delivered in a timely and cost-effective manner.

It is also considered that as this is not currently a material planning consideration that the Local Authority and County Planner's are given time, training and resources to be able to understand the consideration and be able to enforce it

Chapter 6 – Asking for beauty

Ask for beauty

33 Do you agree with making changes to emphasise the role of beauty and placemaking in strategic policies and to further encourage well-designed and beautiful development?

The County Council supports the principle of emphasising the role of beauty and creating places that are well designed and suitable for where they are located. Well designed and beautiful development is not just a visual benefit but should also include how the development functions. Policies should ensure that development has access to the countryside or green and amenity spaces, as well as helping to improve the health and wellbeing of existing and future residents.

The County Council would also consider it is important to ensure that what is meant by beautiful places is clarified further and that significant heritage assets, e.g. industrial structures, are not destroyed because they are considered not conventionally beautiful.

In drafting policy for the design codes, all local planning authorities should set out the minimum standards for development within a planning authority area. The County Council would ask that further consideration and clarity is needed as to how these codes will work in practice. This is particularly important in two tier areas, where the County Council is a planning authority in its own right for mineral and waste development. Clarity is sought as to whether county councils will be required to produce their own design codes for mineral and waste matters and how these developments and/or county design codes will interact district and borough design codes. In addition, the County Council also ask that design codes include principles relating to the protection of the environment as a whole, including the historic environment and also population health.

The County Council also considers that that the phase "Environmentally responsive" should be emphasised over beauty and that this would have a more productive outcome in delivering sustainable and resilient growth. The County Council would also emphasise that there is a need to consider the longer-term maintenance of places to ensure that spaces remain resilient and enjoyed by communities in the long term. Housing should be resilient and adaptable and look to provide for all stages of life.

34 Do you agree to the proposed changes to the title of Chapter 12, existing paragraphs 84a and 124c to include the word 'beautiful' when referring to 'well-designed places', to further encourage well-designed and beautiful development?

The County Council considers that the concept as to what is 'beautiful' is very subjective and will vary from one party to another. There is no universal interpretation to satisfy all. The County Council considers that there should be a greater focus on well-designed places that are designed to deliver high quality growth to meet existing and future community needs. However, there needs to be recognition that some types of development such as mineral and waste management facilities are generally industrial in nature and whilst measures are taken to reduce their impact on visual amenity, they are very unlikely to be described as 'beautiful'. As a result, unless it is clearly stated what these proposed changes mean in terms of planning decisions, there is a concern that the use of the term 'beautiful' may be misinterpreted to support unfounded objections to the development of essential mineral and waste management development.

Refuse ugliness

35 Do you agree greater visual clarity on design requirements set out in planning conditions should be encouraged to support effective enforcement action?

The County Council strongly agrees with this and considers that encouraging planning authorities to impose conditions that provide visual clarity about the design of development and the use of materials would be beneficial. It would also help when considering the need for potential enforcement action and in protecting heritage assets.

Embracing gentle density

36 Do you agree that a specific reference to mansard roofs in relation to upward extensions in Chapter 11, paragraph 122e of the existing framework is helpful in encouraging LPAs to consider these as a means of increasing densification/creation of new homes? If no, how else might we achieve this objective?

The County Council understands that the provision of further accommodation on upper floors could help authorities meet their housing needs in more sustainable locations. However, there is concern that this increase in housing could have a considerable impact and place pressure on local infrastructure and this matter needs to be addressed within policy. The County Council considers that all growth should be supported by adequate infrastructure, that is planned for, funded and delivered in a timely manner.

The County Council would also question as to whether such a local and detailed policy is appropriate for national guidance to consider.

Chapter 7 – Protecting the environment and tackling climate change

Delivering biodiversity net gain and local nature recovery

37 How do you think national policy on small scale nature interventions could be strengthened? For example, in relation to the use of artificial grass by developers in new development?

The County Council wholeheartedly supports restrictions on the use of artificial grass in new development and this should apply to both housing and commercial development. Its use should be reserved to limited application on sports pitches. And rather than just “promote” small scale nature interventions through the National Model Design Codes, the County Council would suggest that there should be a policy requirement for them to be included, with the particular intervention based on local needs. Brighton and Hove Council is one example of this, having introduced a requirement for all new developments to specifically address the provision of suitable habitats for migrating swifts, through the installation of swift boxes and bricks. Policy could also be strengthened to ensure the use of more native and appropriate species planting in landscaping and/or the use of recommended drought tolerant plants/trees to make landscaping more resilient to climate change. Given national targets to extend tree cover across England, national policy should also make better provision for protecting existing trees from loss and, where loss is unavoidable, trees are replaced at a greater ratio to that lost.

The County Council, as Lead Local Flood Authority agrees that the inclusion of artificial grass in place of gardens can have implications for surface water runoff. The County Council considers that advice/guidance at national policy level would remove the need for additional work/ discussions taking place over matters that are deemed not beneficial by Government. Advice/guidance such as removing artificial grass from new developments could be included through the expansion of the National Model Design Code.

Recognising the food production value of farmland

38 Do you agree that this is the right approach making sure that the food production value of high value farmland is adequately weighted in the planning process, in addition to current references in the Framework on best most versatile agricultural land?

The County Council notes that current national mapping does not distinguish between grade 3a and 3b agricultural land classification, which is the threshold between land being considered as best and most versatile (BMV). The County Council recommends that further land assessments should be carried out nationally by an independent body to provide confirmation of where BMV land is located to boost transparency on the matter and avoid further debate. The County Council, supports this proposal, in light of the current issues with food security.

The County Council is aware that growth and infrastructure needs must be balanced against the need to protect BMV land and food production. Engagement with the agricultural industry is necessary to understand and react to the challenges faced in respect of climate change and ensure policy provides the flexibility to respond to these challenges, including through the advancement of new technologies.

Climate change mitigation: exploring a form of carbon assessment

39 What method or measure could provide a proportionate and effective means of undertaking a carbon impact assessment that would incorporate all measurable carbon demand created from plan-making and planning decisions?

The County Council agrees that carbon impact assessments should be applied to all forms of major development including waste management. Establishing a carbon baseline for measuring and monitoring the implementation of carbon measures is critical to the success of carbon impact assessment. Understanding the baseline in terms of geographical areas will also be necessary. It will also be important for a standardised method of assessment and an understanding of the levels of carbon emissions linked to different types of development/processes for consistent carbon impact assessments.

For waste management, consistent carbon production factors should be applied which link waste management targets (and related quantities of waste to be managed) related to for example, recycling, energy recovery and landfill production of greenhouse gas emissions.

Developers and/or operators should be required to continue to monitor greenhouse gas emissions linked to a development over a set period. For waste operations (and similar) this should be for the life of the facility. The developer and/or operator should be required to report to the relevant planning authority on an annual basis in order that it can be reported in an Authority Annual Monitoring Report (AMR).

These requirements could be set out in standard conditions for developments. A method for checking and enforcing alternative methods for greenhouse gas emission reduction (or ceasing of operation) should be made possible, where implemented measures are failing to adequately control such carbon emissions.

Climate adaptation and flood-risk management

40 Do you have any views on how planning policy could support climate change adaptation further, specifically through the use of nature-based solutions that provide multi-functional benefits?

In respect of the County Council's role as Local Highway Authority, it would recommend that there is greater emphasis and stronger policy on accessible and sustainable transportation opportunities to access green and blue infrastructure.

The Government has recognised in its Resources and Waste Strategy for England that the achievement of a circular economy is integral to reducing carbon emissions associated with development. It is important that changes are made to the NPPF that results in planning policy that will ensure all new development contributes to the achievement of a circular economy. Such policy should ensure plan makers include policies in Local Plans which require developers to demonstrate how the construction and operation of new development will contribute to this aim. An example of how this might be achieved is via a requirement for Circular Economy Statements to be submitted with planning applications.

The County Council, as Lead Local Flood Authority pursues the incorporation of above ground SuDS against below ground, end of pipe solutions. The successful integration of above ground drainage can enhance the natural green spaces through the development, whilst supporting biodiversity. The strengthening of part C within paragraph 167 of the NPPF to include specific wording for the inclusion of above ground SuDS where possible in new developments. This would support LLFAs in requesting for more above ground SuDS features against the traditional pipe approaches.

The County Council also recommends that planning policy should reference, and require application of, Natural England's (NE) newly published *Green Infrastructure Framework – Principles and Standards for England*. This would assist in the delivery of multifunctional green space that can deliver a number of nature-based solutions and support climate change adaptation. The NE standards should be made a mandatory requirement, so that they have to be taken into account at a local level in plan-making and all planning decisions for new development projects. Otherwise, it is not clear how reforms to planning policy will help achieve the Framework's ambition of 40% greenspace in urban areas, a target which should also be embedded into planning policy. It is vital that planning reforms supports better access to nature for all, ideally complemented by the called for *legal right to nature* within the Levelling Up and Regeneration Bill. The County Council considers that that green infrastructure, community green space and better access to nature does not appear well considered or provided for within the consultation document.

The County Council would recommend that there is a greater focus through the NPPF for accessible neighbourhoods, where active travel opportunities are maximized. The County Council would also encourage any policies that seek to encourage walking and reduce the need for travel. This could include ensuring better access to a fully integrated public transport systems, bike shares and e-bike infrastructure, fully electric car share schemes and the infrastructure to support these proposals. The County Council would also urge the need to ensure that infrastructure provision, including utilities and broadband are encouraged to allow more home working. Clean air zones around schools should also be promoted.

In respect of paragraphs 5-9, the consultation notes the risk of clearing sites before applying for planning, to lower the baseline from which gain is assessed and that the Government will work with Defra to review the current degradation provisions for Biodiversity Net Gain to address this. The current provision within the Environment Act of being able to revert to the 2020 baseline is a good start but this should be accompanied by better provisions and processes for penalties, especially when wildlife crime has occurred, and resources to investigate and enforce these. It should also be noted that the use of the 2020 baseline provision relies on the planning application being reviewed by an appropriate ecological professional and therefore it is vital that Local Authorities are properly resourced in terms of capacity and capability when it comes to the implementation of biodiversity net gain. In respect of sites that are found to have been cleared in advance of planning application, the County Council suggests that these should be required to deliver a greater gain than the mandatory minimum 10% and would suggest 30%. Whilst reversion to the 2020 baseline may deter some, the benefits of that clearance could still outweigh the disbenefits. Therefore, the requirement for delivery of a greater biodiversity gain would likely act as a better deterrent, particularly in respect of Local Nature Recovery Strategies (LNRS). The County Council would welcome further guidance on how local authorities will be expected to

comply with this duty and stress the importance of delivering this as soon as possible so that the opportunity to embed provisions for the LNRS are not missed for local plans going through the review process now. The LNRS should also be a reference point and spatial plan for the opportunities to extend or enhance these opportunities for adaptation and delivery of nature-based solutions.

The County Council would also welcome the consideration of greater ancient woodland protection especially if this prevents any further loss and damage of this irreplaceable habitat. Development projects should be required to completely avoid precious habitats with better appreciation through policy of the value of existing woods and trees.

The County Council would also draw attention to the challenges when implementing nature-based solutions and potential conflict with underground and overground utility infrastructure, which prevents and complicates implementation of nature-based solutions. Nature based solutions must be utilised across all landscapes where possible, including both brownfield, urban and greenfield development.

When considering multifunctional spaces, there should also be the consideration of the need to increase formal and informal sport and physical activity provision to meet the growth in population and housing and to support population health. Consideration should be had as to how the spaces are designed as multi-functional community facilities and how they will be accessed, delivered and funded.

Chapter 8 – Onshore wind and energy efficiency

Enabling the repowering of existing onshore wind turbines

41 Do you agree with the changes proposed to Paragraph 155 of the existing National Planning Policy Framework?

The County Council would note the key phrase in this section relates to whether the repowering of renewable and low carbon energy can be made acceptable in planning terms. The County Council would wish to emphasise the need for effective community engagement for any repowering of existing onshore wind turbines, ensuring communities are given a meaningful voice in this matter.

42 Do you agree with the changes proposed to Paragraph 158 of the existing National Planning Policy Framework?

As above.

Introducing more flexibility to plan for new onshore wind deployment

43 Do you agree with the changes proposed to footnote 54 of the existing National Planning Policy Framework? Do you have any views on specific wording for new footnote 62?

The County Council recognises that mitigating climate change impacts effectively is vital to achieving Net Zero and onshore wind is part of the contribution towards this target. The County Council would ask that the carbon footprint of installing the windfarms and also

disposing of them at the end of their life span should also be taken into account. The proposals around community engagement should also be applied to all energy development projects. It is vital that effective engagement takes place to ensure communities are well informed of proposals and able to provide feedback accordingly to applicants.

The County Council also notes it is proposed that all onshore windfarm applications be considered by local planning authorities, as opposed to the Nationally Significant Infrastructure Projects (NSIP) regime and would question why this form of energy production has been singled out for exclusion. The County Council recognises that there are ongoing discussions regarding reforms to the NSIP regime but would question why onshore windfarms of the threshold (50MW) are not required to undergo the national scrutiny and assessment that other energy projects are required to do.

The County Council considers that reference to financial incentives for communities around onshore wind should equally apply to all forms of power generation as this could boost local support for projects.

The County Council would also request consideration around support for the decarbonisation of heat, e.g., around making it easier to install heat pumps. The County Council considers that there is a need to decarbonise our heating sources through heat pumps or collective heating solutions such as district or community heat networks.

Barriers to energy efficiency

44 Do you agree with our proposed Paragraph 161 in the National Planning Policy Framework to give significant weight to proposals which allow the adaptation of existing buildings to improve their energy performance?

The County Council considers that the adaptation of existing homes to ensure they remain consistent with the objective of mitigating climate change impacts, rather than demolishing and replacing with new, is consistent with circular economy principles. This is provided that all proposals not just those affecting conservation areas and listed buildings should take into account the policies set out in Chapter 16 of the NPPF.

The County Council would also recommend that there is a localised approach to energy, for example the provision of solar on rooftops which is a simple action that can be taken on an individual residence basis that supports the greening of energy generation but also supports energy security in more rural areas.

Chapter 9 – Preparing for the new system of plan making

Giving time to finalise and adopt plans already in development before the reformed plan-making system is introduced / Neighbourhood Plans / Supplementary Planning Documents / Timeline for transitioning to the reformed plan making system

45 Do you agree with the proposed timeline for finalising local plans, minerals and waste plans and spatial development strategies being prepared under the current system? If no, what alternative timeline would you propose?

The County Council considers that the proposed timeline for finalising waste local plans prepared under the current system is reasonable subject to the reforms progressing in

accordance with the proposed timetable. It is vital that the Planning Inspectorate and Local Planning Authorities should be adequately resourced to ensure that the local plan examination process is concluded in a timely manner.

46 Do you agree with the proposed transitional arrangements for plans under the future system? If no, what alternative arrangements would you propose?

The County Council considers that in principle the proposed transitional arrangements and the timeline for implementation appear reasonable. However, clarity is required for authorities, on the need to '*start work on new plans by, at the latest, 5 years after adoption of their previous plan*'. Further clarity is sought as to what is meant by the term 'start work'. The County Council questions whether this refers to a review of the existing plan to examine whether it is effective and up to date; or is it intended that the preparation of new local plans 'start' regardless of whether an existing plan is deemed to be effective and up to date.

Whilst recognising Government's objective to have up to date plans in place to support a plan led planning system, the proposed requirement to prepare local plans within 30 months is wholly unreasonable and unrealistic considering the very limited financial and human resources currently available to local planning authorities, which are barely adequate for the current arrangements. The condensed timetable appears to be proposed in the context of removing the requirement for plans to be 'justified'. Plan preparation which includes meaningful public consultation, independent assessment for SA/SEA and input at examination stage, takes time and resources and is important in helping to gain the political, community, and industry support. Experience shows that effective plan preparation takes around 5 years.

The County Council also notes that legislation requires that policy framework documents such as local plans are required to be considered by Full Council at key stages of the plan making process, including decisions to submit and at adoption stage. This legislation will require revision to meet the much-reduced plan making timetable that is being proposed.

47 Do you agree with the proposed timeline for preparing neighbourhood plans under the future system? If no, what alternative timeline would you propose?

The County Council has no comment.

48 Do you agree with the proposed transitional arrangements for supplementary planning documents? If no, what alternative arrangements would you propose?

The County Council considers that the transitional arrangements for Supplementary Planning Documents (SPDs) should be for five years and as opposed to three. These documents take considerable time and effort to adopt and must go through a long consultation process, so it is requested that the transition time is lengthened.

Currently SPDs are an important planning tool for providing guidance on the implementation of planning policy, the inclusion of which in Local Plans would make them cumbersome and delay their preparation. There is a general concern that abolition of SPDs will remove a tool that currently gives local authorities the ability to create targeted planning documents relatively quickly to respond to changing circumstances and provide local detail for

facilitating appropriate development. It also removes the influence of the County Council as many of their strategies are adopted by local authorities, which gives them more weight and provides guidance.

Chapter 10 – National Development Management Policies

What are National Development Management Policies? / The Case for National Development Management Policies / The scope of National Development Management Policies

49 Do you agree with the suggested scope and principles for guiding National Development Management Policies?

The County Council notes the proposed scope and principles in respect of the National Development Management Policies (NDMP). The County Council would, however, raise concern as to how these policies will be drafted and consulted upon. The County Council considers that a Local Plan should retain the ability to include bespoke development management policies that address local circumstances and its ambitions and objectives and provide for local accountability.

While the proposal for a national suite of development management policies has its merits in relation to potential improved consistency and efficiency, there are matters pertaining to mineral and waste management activities which will need separate consideration within any such national set of policies. Overarching policies specific to mineral and waste management development would be strategically beneficial and provide greater certainty and clarity to local planning authorities, communities, and industry.

The County Council welcome the intention to include general policies for conserving heritage however it is important that all the policies set out in the Chapter 16 of the NPPF and also the new requirements from the Bill are taken into consideration when drafting the policies. We would also ask that the National Development Management policies are appropriately cross referenced and not contradictory.

50 What other principles, if any, do you believe should inform the scope of National Development Management Policies?

The County Council would also consider that further scope for the national policies could include areas such as Public Rights of Way, National Trails, Environment, Biodiversity, Population Health, Heritage and public access to green / open spaces. These areas should be recognised and protected as nationally important issues.

The County Council would also stress the need for proper engagement and consultation on the wording of these policies to ensure that both applicants and Local Planning Authorities are satisfied and able to deliver upon the details set out.

In preparing the detail, careful consideration will be required to ensure that the introduction of NDMPs provide the appropriate level of detail to support effective decision making and does not end up being cumbersome with a growing number of issues addressed via NDMPs resulting in the need for extensive guidance to ensure they are implemented consistently.

51 Do you agree that selective additions should be considered for proposals to complement existing national policies for guiding decisions?

The County Council believes that these should only be considered where they are necessary to be set at a national level.

52 Are there other issues which apply across all or most of England that you think should be considered as possible options for National Development Management Policies?

The County Council would recommend consideration around Public Rights of Way, National Trails, Environment, Population Health, Biodiversity, Heritage, resilience, public access to green/open spaces and minerals and waste planning activities.

Chapter 11 – Enabling Levelling Up

53 What, if any, planning policies do you think could be included in a new framework to help achieve the 12 levelling up missions in the Levelling Up White Paper?

The County Council would draw attention to the need to ensure there is a clear role for county councils moving forward. As strategic and local infrastructure providers, it is important that county councils are provided a clear role through the Levelling Up agenda. The “bold innovative ideas” quoted require innovation through investment in Local Authorities and communities not only from “private sector investment” as stated.

Levelling up and boosting economic growth

54 How do you think that the framework could better support development that will drive economic growth and productivity in every part of the country, in support of the Levelling Up agenda?

Land-use development including new and replacement infrastructure will be fundamental to sustainable economic growth, however greater clarity and certainty is required in relation to sustainable waste management to ensure the development of sufficient facilities to manage waste to meet community’s needs. An example being the inclusion of waste management as an activity that may come forward on land allocated in Local Plans as ‘employment land’ should be clearly stated. Similarly, the NPPF in paragraph 120 should reference safeguarding of waste management infrastructure to ensure that it is not overlooked in decision-making.

The County Council considers strongly that the framework should also consider the health and wellbeing of communities, ensuring easy access to health services and recreation spaces, promoting a healthy lifestyle to boost productivity.

The County Council would also raise the need for the framework to address the need to ensure appropriate utility provision, including water, is available to be able to support sustainable growth.

The County Council also considers that it is vital that the framework recognise a need for a better supply of employment land. Guidance on responding to local demand as an essential part of any Local Plan would be desirable, including how legacy properties and sites can be upgraded or repurposed.

55 Do you think that the government could go further in national policy, to increase development on brownfield land within city and town centres, with a view to facilitating gentle densification of our urban cores?

As part of the wider beautification agenda national policy could provide additional support for No Use Empty programmes and support to allow for derelict areas to be beautified either for temporary or permanent basis. This should include opening up areas of new open space or for sustainable transport.

The County Council would also suggest that any such proposals must take into account that brownfield sites and city and town centres are often sensitive and significant areas for heritage assets.

Levelling up and boosting pride in place

56 Do you think that the government should bring forward proposals to update the framework as part of next year's wider review to place more emphasis on making sure that women, girls and other vulnerable groups in society feel safe in our public spaces, including for example policies on lighting/street lighting?

The County Council would agree that proposals should be brought forward to ensure users feel safe in public spaces. Well-designed spaces should provide opportunities for natural surveillance, create safe and accessible spaces and PRow and be accessible to all users. Best practice case studies and expertise in the matter should be sought out and engaged to ensure the proposals are effective in creating safe spaces and the perception of safe spaces.

Chapter 12 – Wider changes to national planning policy in the future

The County Council welcomes the proposed provisions for nutrient neutrality as a significant number of new homes are held up by this issue in Kent. The County Council is pleased that these proposals will require water companies to improve nutrient concentrations from wastewater treatment works and provide certainty about the provision of these measures. However, proposals as currently drafted, set the new concentrations of nutrients to the current Water Industry Technically Achievable Limit (TAL). This level of nutrient concentrations will not remove the need for nutrient neutrality in Kent, developers will still be required to achieve this, albeit at a lower level. The County Council accepts that going beyond TAL is unreasonable (though there are examples, especially for phosphorus, where water companies do go beyond TAL), however, technology is likely to improve, it always does in the Water Industry, and in a future investment period an improved TAL could be applied that did reduce nutrient concentrations to a low enough level to remove nutrient neutrality requirements.

The County Council would prefer proposals to allow Water Companies to be required to implement future improvements in TAL in sensitive catchment areas, without the need to

draft further primary legislation. If the nutrient pollution standards were specified in secondary legislation or guidance, they could be updated by the Minister in future as technology improves. This will only be applicable in areas that remain sensitive catchments for these nutrients, so need only apply to catchments that remain sensitive after this round of improvements. This would provide much needed flexibility to this provision and provide certainty that nutrient neutrality will be removed at some time in the future in catchments where the current round is not sufficient.

Further flexibility would be introduced if proposals allowed water companies to invest in solutions being delivered by partners that help to improve the condition of the catchment, instead of exclusively focussing on the engineering schemes specified upgrades to achieve TAL. As the proposed upgrades will not remove the requirements for nutrient neutrality, costs will still need to be borne by developers, ultimately passed on to house buyers, for nutrient neutrality schemes. Financing these through water bills by allowing water companies to fund them would be more equitable, as all homes in the catchment are contributing to the problem. Many of these schemes will achieve the necessary reductions in nutrients at lower cost, in both capital and carbon, than the proposed engineering schemes.

Chapter 13 – Practical changes and next steps

57 Are there any specific approaches or examples of best practice which you think we should consider to improve the way that national planning policy is presented and accessed?

It is noted that consideration of the National Planning Policy for Waste and Planning Policy for Traveller Sites that sits alongside the National Planning Policy Framework will need to be reviewed in light of changes to the NPPF and to ensure that the policy meets the actual need. Attention is drawn to the current Policy Statement - Planning for Schools Development, 2011 and it is suggested that similar consideration be given to this policy document.

Whilst the Planning for Schools Development currently works well as a standalone document, there would be considerable merit in incorporating the National Planning Policy for Waste (NPPW) into the NPPF. This would create a single national planning guidance document and provide greater emphasis on the importance of sustainable waste management and the role it plays in addressing climate change and delivering economic growth and sustainable communities.

Public Sector Equality Duty

58 We continue to keep the impacts of these proposals under review and would be grateful for your comments on any potential impacts that might arise under the Public Sector Equality Duty as a result of the proposals in this document.

The County Council has no comment.