

Consultation on ‘Planning for the Future – White Paper’: Response on behalf of Tunbridge Wells Borough Council

29 October 2020

Pillar One Planning for development

Q1: What three words do you associate most with the planning system in England?

Underfunded, longstanding, complex

Q2. Do you get involved with planning decisions in your local area?

TWBC is the Local Planning Authority (LPA)

2(a). If no, why not?

N/A

Q3. 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?

The White Paper sets out that planning applications will be more digitised, using standard templates and supporting information.

Similarly, (under proposal 7) it sets out that Local Plans should be visual, map and web based, standardised, “based on data” rather than documents, use a new template, accessible through digital services such as a smart phone, and designed with the “user in mind”. In turn, this will enable “new digital civic engagement processes”.

All of which will, in principle, make it easier to access plans and contribute views on planning decisions.

However, there is little detailed information on how this will be implemented, funded, and delivered. Therefore, TWBC is supportive of these principles, but it will be necessary to ensure that there is adequate funding of LPAs to develop these approaches, ensure integration with legacy data sets, and that clear and realistic timetables are provided for the implementation of the proposals.

In response to the initial question, TWBC considers it is appropriate that the key way for people to find out information is through digital means, particularly online email or message alerts. However, it is important to ensure that those members of communities who would be less likely to use digital technology are actively engaged in the process, and again sufficient funding and clarity of process must be provided to ensure that LPAs can meet these requirements.

Q4. What are your top three priorities for planning in your local area?

1. The difficulties of planning for high levels of housing in a constrained (by landscape, infrastructure, environment and planning policy designation) borough;
2. The funding and timely delivery of infrastructure;
3. The delivery of genuinely affordable housing.

Supporting the high street and local economy, protection of heritage assets and open areas, important landscape designations, Green Belt, flooding, design, and climate change are also of very similar priority.

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.

Q5. Do you agree that Local Plans should be simplified in line with our proposals?

In principle, the proposals could work well. However, this proposal must be read in conjunction with Proposal 4, and questions 8a) and b).

TWBC has provided a robust response setting out why the standard method as proposed in the Changes to the Current Planning System (CtCPS) document (<https://www.tunbridgewells.gov.uk/planning/government-consultations>) is not appropriate, and these are re-iterated below. In summer 2020, the Leader of TWBC (Cllr Alan McDermott) also wrote to MHCLG setting out a method for calculating housing need which factored in constraints as a fundamental element.

This contrasts to the approach in CtCPS and the White Paper which set out that land constraints will be taken “into account” in the proposed standard method – almost as an afterthought.

TWBC has also been clear in its response to the CtCPS that it is illogical to introduce the proposed changes to the standard method as a first stage, before then changing the approach so that constraints will be “factored in” or taken “into account”.

It is also extremely difficult to see how the “factoring in” will have any meaningful impact on an individual borough/district’s housing requirements when there is only a “balance” of 37,000 homes (12.3%) above the Government’s stated ambition of 300,000 homes per year, when this is compared to the national extent of Green Belt, National Parks, AONB, areas of flooding, etc.

Tunbridge Wells is used here as an example: there are many similar authorities which will exhibit similar characteristics, and the proposed changes which will have similar highly difficult consequences. For example, if designations such as Green Belt and AONB are to be designated nationally as areas of *protection* and the effect of the “more stringent development controls” here result in highly limited development, for boroughs such as Tunbridge Wells whereby the proposed standard method would result in a 32% increase in (binding) housing requirement above the current standard method and the borough is highly constrained, this would automatically channel housing into the 25% of the borough not covered by either designation.

In addition to these non-Green Belt and non-AONB areas including some areas of flooding, importantly there has simply not been the land made available for development here in two extensive “calls for sites”, or these are areas which are highly rural in nature and lacking in relevant infrastructure and/or have local heritage designations. This would place an unrealistic burden on other parts of such boroughs to deliver this development.

Therefore, whilst the theoretical benefits of a simplified approach are recognised, TWBC cannot support the proposal without constraints being given a much greater role in determining the national pattern of growth (housing and other development), for the reasons set out above.

Furthermore, it is also difficult to envisage (from a practical perspective) how gardens can be included in *protected* areas in settlements that would most likely be identified as growth or renewal areas: it would be a huge, highly granular and unrealistic task to map and identify garden areas within such settlements, and to clearly show these in plan/map/visual form without it appearing overly complex.

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

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

No

Whilst it is agreed that there is no need for policies to repeat the policy in the NPPF, environmental, economic, social, and cultural factors are often highly specific to a particular area.

The production of relevant development management policies which reflect these local factors are fundamentally important in ensuring that development is of an appropriate form, design and location, and respects and reflects the particular local circumstances.

Such policies can include matters such as parking provision, the design of shop fronts in heritage areas, encouraging appropriate re-use of buildings in rural areas for employment use, etc.

The circumstances for one LPA in relation to such matters will potentially be completely different from those of adjacent LPAs. It is difficult to see how nationally set policies would be able to reflect the particular local factors and circumstances, with the net results being a diminution of local distinctiveness in development.

Rather, TWBC supports the approach of the NPPF being explicitly clear which broad policies are to be provided by the NPPF only (where there is no need for local variance to reflect local characteristics), with LPAs having the similar level of flexibility as at present to set their own on appropriate policies.

TWBC also strongly supports the proposals for LPAs and Neighbourhood Plans to produce design guides and codes, although it is not envisaged that there will be any circumstances where a design code will be appropriate for a whole borough (i.e. it will always be on a smaller, more local scale). Rather (and as set out in response to Q13b) it is considered that Neighbourhood Plans can play a really important role in the development of design codes, including at a street by street scale.

Whilst TWBC is supportive of the approach of design codes and guides, it is essential that there is the appropriate funding to deliver these in parallel with a Local Plan. Many LPAs have lost “urban design” specialists, and the work involved in producing design codes and guides requires intensive analysis of the existing character, and careful and skilful production of codes.

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

Q7(a). Do you agree with our proposals to replace existing legal and policy tests for Local Plans with a consolidated test of “sustainable development”, which would include consideration of environmental impact?

Not sure

The proposition that Local Plans be tested against their contribution to sustainable development is logical in that it aligns with the purpose of the planning system, as set out at paragraph 7 of the NPPF.

However, there is very little detail on the specific nature of the test, which makes it difficult to compare with the existing tests. However, from the detail provided, the following responses are made:

a) Sustainability Appraisal (SA) – it is agreed that the current SA process is unduly burdensome and ineffective. A simplified assessment of the environmental impact of plans would be welcomed. However, the new sustainable development test should retain the clear recognition (as in the SA) that plan making has to balance these with economic and social impacts.

b) Deliverability is accepted by the LPA as an important aspect of the current test, to ensure that housing targets will be met by Local Plans, albeit it should be tailored to recognise that some uncertainties will remain at the plan-making stage, particularly for strategic proposals. Rather than diminish this aspect, to ensure housing supply, it is recommended that the new test examines whether suitable processes are in place to progressively remove outstanding issues and bring sites forward.

c) The option of identifying a stock of reserve sites may not be consistent with protection of designated and highly constrained areas. It could lead to a Local Plan failing at examination.

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

The Duty to Cooperate has proven a poor substitute for effective strategic planning and has clearly become an unwieldy 'yes/no' test.

It would help reduce the burden on LPAs if most, if not all, LPAs had a housing requirement that they are able to meet within their own area – see response to Q8 below.

The planning of strategic sites is entirely possible with current LPA-based Local Plans. LPAs can, and do, cooperate across boundaries without the formal process of the duty to cooperate. However, it would seem prudent to replace the duty with a combination of:

- a need to positively consider plans across housing market areas
- examination to cover infrastructure plans/proposals
- explicit regard to the wider impacts of developments as part of the normal examination process.

At the same, it is noted that the development constraints faced locally, in terms of AONB and Green Belt coverage, would not be overcome by joint plans with neighbouring LPAs, which are subject to similar constraints.

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

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

Firstly, as set out in the Council's response to the consultation on CtCPS, the product of the standard method on its own would not always be capable of being delivered in

market terms. This is demonstrated for Tunbridge Wells by a study carried out for the Council by Icen Projects. Therefore, any formula must take into account what the market can deliver.

In relation to the application of constraints, to be achievable, a reduction in a requirement would need to bring the standard method figure down by about 25%. One way of doing this would be to not apply the uplift in AONBs. This would be consistent with the priority to meeting local needs (as National Parks). The same approach could be applied to Green Belt, taking the assumption from the references in the White Paper (e.g. page 29) that the Government is committed to their retention.

At the same time, it is very unclear how constraints can be properly factored into any formula, as it is difficult to weigh the impact of constraints, such as flood risk. It would need to have a clear basis (as suggested above in respect of National Parks, AONBs and Green Belts).

TWBC would refer back to the highly detailed and strong comments (<https://www.tunbridgewells.gov.uk/planning/government-consultations>) made in relation to the CtCPS on this point, which for the sake of succinctness have not been repeated here.

Q8(b). Do you agree that affordability and the extent of existing urban areas are appropriate indicators of the quantity of development to be accommodated?

No. They are factors.

TWBC's response to questions 1-5 of the consultation on CtCPS largely address this question, which again are not repeated in full here for the sake of succinctness. Please refer to <https://www.tunbridgewells.gov.uk/planning/government-consultations>

As acknowledged, some areas, such as National Parks, but also AONBs and historic areas, are highly desirable. Affordability should be a factor, but the prime one should be the existing distribution of population. The proposed, principal, regard to existing housing stock is regarded as appropriate, with an affordability uplift.

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

Q9(a). Do you agree that there should be automatic outline permission for areas for substantial development (Growth areas) with faster routes for detailed consent?

Not sure

The reasoning for the proposal to allocate growth areas through Local Plans, which would then benefit from an “automatic outline permission”, is understood, and as set out in the White Paper draws from the approach in other countries.

However, it relies on Local Plans being properly developed with the requisite detail required for LPAs, and (of most importance) communities, businesses, developers and stakeholders, to be satisfied that the development can be delivered and will have an acceptable environmental, social, and economic impact on the area.

The ability to achieve Local Plans which follow this approach will be dependent on:

a) a significant and sustained increase in “ring fenced” funding for LPAs to retain (and in some instances attract) those professionals to undertake this work, including where necessary, masterplanning and other specialist consultants;

This is particularly the case due to the impact that would be felt by LPAs from the removal of planning application fees associated with the submission of major planning permissions: for example the 20 largest planning applications for 2019/20 at TWBC accounted for 40% of the total fees received, although in numerical terms they were less than 1% of total application numbers

Mention is made within the White Paper to Planning Performance Agreements being used as a tool to secure funding from developers moving forward with such development, and clarity should be provided on the scope for this. As a minimum, this should be the same level as an outline planning permission.

b) a broadening and deepening of the national skill sets of planning professionals (combining planning policy, masterplanning, design, and development skills and experience);

c) sufficient lead-in time for the new form of Local Plans to be introduced, and;

d) a cessation of constant alterations to the national planning system, as has been experienced over the previous decade, including through changes to permitted development, national planning policy, etc.

The tight timeframes proposed for LPAs to prepare new Local Plan risks gaps in the content, and (as set out below in response to Q12) a key concern is the ability for public consultation with residents, businesses, etc, which is absolutely key as the second stage of public participation (i.e. outline planning application) will no longer be available.

For strategic development sites, this could have significant adverse consequences on how new settlements are integrated into the local area and confidence on whether there is sufficient infrastructure now, or to be delivered, to accommodate the growth.

There is also a question mark over whether Local Plans will be flexible enough to respond to changing market circumstances which may dictate the form of development over the Plan period. There is a clear potential conflict of speed versus substance, and to properly plan for the growth of the area it is essential the appropriate level of detail is considered up front.

Assuming proper policy and guidance is provided to ensure growth areas within Local Plans are robust, and the level of detail set out in the Plan is sufficient, then (as above)

the principle of automatic planning permissions is understood, but cannot be supported in the absence of detail or confirmation of the “dependencies” detailed in response to this question.

In terms of faster routes for development consents, again, this cannot be at the expense of ensuring the level of detail provided to the LPA, and the opportunities for public engagement, are sufficient to properly consider the impact of development.

Importantly, it also requires an appropriate buy-in from all statutory consultees and infrastructure providers to contribute, where required, to the assessment of the proposals. Development management decisions can often presently be delayed due to consideration from stakeholders outside a LPA, and the importance of their input at Local Plan stage - to ensure that the proposals have been properly considered – will only increase under the proposed arrangements. Therefore, it is essential that the legislative and (where appropriate) funding/resourcing arrangements are in place to ensure appropriate input.

Q9(b). Do you agree with our proposals above for the consent arrangements for Renewal and Protected areas?

Not sure

The broad principles of both *renewal* and *protected* areas seem sensible in theory and would provide clarity to developers looking to invest in areas, businesses, and residents who live and operate in those areas, although TWBC’s comments and concerns have been set out in relation to Q5.

In terms of the consenting regime for *renewal* areas, given that the application process would be truncated in the proposals, the same comments made in relation to Q9a) regarding sufficient detail and public participation in the Local Plan stage apply here.

The consenting regime for *protected* areas is understood (as it operates at present), and whilst TWBC considers it could be improved in the digitisation, standardisation, etc of the application process (please see response to Q3), the broad approach is considered appropriate for *protected* areas.

As a broad point, it is essential that the consenting regimes have sufficient flexibility to enable development to respond to market and other demands over the plan period, and in situations where on balance, the benefits delivered by a scheme which is not in line with the “zoning” set out in the Plan outweigh the departure from policy. For example, with specific regard to protected areas, national guidance within the NPPF makes clear at present that there is a presumption against development in such areas, unless exceptional/very special circumstances can be demonstrated. To enable ongoing flexibility, such inclusions within both plan making and decision taking should remain.

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

Not sure

This idea is interesting and one we consider should be considered further, with more detail and information provided before TWBC is able to conclude if it is an appropriate mechanism at this time.

TWBC's current thoughts are:

- the obstacles to delivering large-scale housing projects will not necessarily be resolved through delivering such schemes through the NSIP regime, via a Development Consent Order;
- Delivering a large-scale housing scheme on the ground requires flexibility, with a need for a variety of appropriate mechanisms to be available. For example, whilst Development Consent Orders can be amended these are more complicated, and timely to resolve, which could lead to greater uncertainty;
- A large amount of work is required upfront for the delivery of schemes through the DCO process. Such costs on developers could be prohibitive if the risks are deemed too high, which could stall the delivering of strategic sites.

However, if changes can be made this could be a practical benefit as a route. This would require absolute clarity on the parameters, ensuring flexibility, establishing a clear policy basis and adequate resourcing.

TWBC is keen to hear further detail on this proposal, to inform further comment.

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

Q10. Do you agree with our proposals to make decision-making faster and more certain?

Not sure

TWBC welcomes the Government's overall ambition to improve the planning process and the use of modern technology. However, it is difficult to predict how this approach will work in practice until detailed and clear legislation and guidance are available.

Deadlines for determination of applications

TWBC agrees that the established time limits of eight or 13 weeks for determining an application should be a firm deadline in most instances (please see below), and indeed TWBC determines the vast majority of applications within those timescales.

However, it is considered that the option that enables extensions of time remains an appropriate approach to enable applicants to provide further or amended information to secure consent instead of forcing them to withdraw and re-submit an application, or for the application to be refused on a relatively minor point which could easily be addressed through the submission of amended plans.

This approach often reduces cost and time, both for applicants, LPAs, consultees and (in relation to time) residents: the expense and hours taken to prepare and review an application is considerable, and is likely to remain so even with the greater use of technology/standardised reports, etc.

Similarly, there are a number of occasions where statutory consultees are unable to provide detailed responses within “consultation” timescales, or if they do will take a precautionary negative approach. In such instances, extensions of time are again extremely useful for LPAs, applicants and obviously the statutory consultees.

Therefore, where an extension of time has been agreed for such reasons, or there is a delay to important responses from consultees (as opposed to an LPA not managing its processes/resources appropriately), it would be entirely unreasonable for the LPA to refund the fee in the event that the decision is not made within the statutory time limit. This is particularly relevant if the delay in the application process is caused by the lack of information provided as part of the application and this impacts the ability of the LPA to grant planning permission for suitable development.

Greater use of digital technology

Whilst this may work for small-scale/householder schemes, it is unrealistic to create a streamlined and digitally enabled end to end process for all types of planning application and this should not be regardless of the category of land. Each application is different on its own merits and the land associated with it will have specific characteristics, constraints, and designations, which will inevitably affect the quality and timing of decision making. TWBC is keen to see how the proposed digitalisation will enable the integration of validation with the submission of applications for larger proposals or proposals within areas of environmental constraints.

TWBC considers that there is a balance between the levels of supporting information required as part of applications (which in some instances are excessive and are overwhelming for residents, businesses, etc to review) and the provision of some key information to validate an application, to understand the details of the proposal, to assess its wider benefits or impacts, to enable the officers and statutory consultees to assess the wider benefits or impact of the proposal, and for the public to be involved and input to the application process.

Importantly, if the appropriate balance is not met, and too little key information is provided, this would create the risk of the application process (from validation to the decision stage) being longer, or if there is no ability to agree an extension of time, for more refusals of planning permission/addition of further planning conditions (delaying the implementation of the permission) which could easily be addressed through the submission of that detail.

TWBC welcomes a national data standard for smaller applications subject to its context and details. In doing so, the standards should still be carefully considered for different land categories. Requirements for a small proposal relating to brownfield land in a sustainable location will not be similar to a small proposal of a green field in the countryside.

For major applications (at present), TWBC considers the justification of the development proposals does not lie with the number of pages in a planning statement. However, it is considered that the White Paper could go further, making it a robust or mandatory requirement for proportionate pre-application engagement to take place between the applicant, LPA, statutory consultees, and infrastructure providers and, importantly, the local community. Mandatory meaningful engagement with the local

community (proportionate to the scale of the proposal) and a standardised document setting out how that had been taken into account would, in TWBC's view, have the biggest impact in terms of speeding up and making decision making more certain, particularly for small-scale proposals (extensions, minor development, etc). Whilst, in TWBC's experience, developers of major proposals will often undertake such engagement, applicants for smaller scale development do not and instead rely on the LPA's consultation to elicit responses before adapting their proposals in response to these: all of which could be undertaken at the beginning of the process.

As is a recurring point throughout this response, it is essential that LPAs are provided with the appropriate resources, and that includes in relation to the modernisation of the planning system through improved software.

We welcome and agree with the ambitious approach in creating data-rich planning application registers and accessibility to information. However, as set out in the response to Q3, consideration should be given to those in the public who remain without the benefit or knowledge of digital technology.

Standardised technical supporting information on environmental considerations and the contribution that design codes may make towards this approach are welcomed. However, LPAs should be given the option to be involved for site-specific matters to ensure that wider or unforeseen impacts can be mitigated.

Planning Committee time is precious, and it would be helpful for greater clarity on the delegation of detailed planning decisions to planning officers at a national level, including for developments that have been established in principle. Again, repeating a theme in other answers, there is a balance to be struck between the positive role in achieving cost and time effective decision processes, public engagement, and the role of Members in decision making.

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

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

Yes

TWBC very much supports these proposals and has in recent months seen the ability for digital civic engagement. Many text-based Local Plans are lengthy, unwieldy, and difficult to use. As TWBC approaches its Regulation 19 consultation in spring 2021 (in a likely socially distanced manner, as a result of the Covid-19 pandemic) it has set out in its Statement of Community Involvement how it will seek to use digital technology, and would be happy to be part of a pilot in early 2021 as to how this could operate.

Again, as reoccurring themes to these responses, this support is subject to:

a) the changes ensuring that those members of society who are not able, or do not have access to, digital means can still be engaged, and;

b) adequate resourcing (technological and funding wise) being provided to enable this.

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

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

The principle of a clear and shorter timetable for the production of a Local Plan is welcomed. However, to deliver a Local Plan on a shorter timescale will (again, as per earlier responses) require significant and sustained increases in funding for LPAs to achieve this.

However, TWBC does not agree that the 30-month timescale, and indeed the five-stage process are realistic and, fundamentally, do not give sufficient opportunity for public engagement in the Local Plan making process.

Public, developer, consultee, infrastructure provider engagement

As detailed in the response to question 9a) the proposals for *Growth*, and to a lesser extent, *Renewal* areas, will remove/truncate public engagement at the application stage. It is therefore fundamental that there is an additional stage added in the Local Plan process, between Stage 3 and 4 whereby the plan can be adapted following the public engagement at Stage 3.

Such an approach follows in many ways that used by TWBC: it consulted on a Draft Local Plan (containing a full suite of strategic, site allocation, and development management policies) under Regulation 18 in late 2019. The engagement and feedback from that is directly inputting into the Pre-Submission version of the Local Plan (to be consulted on in spring 2021 (i.e. 18 months between consultations)) and this has undoubtedly significantly strengthened the Local Plan, and ultimately (subject to adoption) will result in the delivery of better, higher quality, development and infrastructure.

Without such an additional stage, it is highly likely that the public will not feel engaged in the plan-making process.

Timescales

The timescales for each stage could be achievable, subject (as above) to significant increases in resourcing, including the ability to fund the use of external masterplanning, design and infrastructure consultants.

However, as set out above, it considered necessary for an additional stage of consultation to be included in the process. This would mean that, whatever the levels of resources provided, the overall timetable for 30 months could not be achieved.

Stage 4

In the absence of further detail, significant concern is raised as to the extent of binding changes that the Inspector can make at this stage. It is not clear as to whether, if the Inspector were to disagree with the entire spatial strategy, he/she will be able to make such significant changes that are essentially a different or highly modified strategy. If so, this would increase the risks that some LPAs – fearful of public opposition (not TWBC, which has consistently demonstrated through the production of its emerging Local Plan that it is able to undertake decisions) - will be looking for the Inspector at Stage 4 to “grasp the nettle” and take those difficult decisions.

TWBC is keen to hear more detail on this proposal, and indeed (in relation to all the proposals in the White Paper) considers that the provision of such further information should be a priority of MHCLG (in terms of planning reform) moving forward.

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

Q13(a). Do you agree that Neighbourhood Plans should be retained in the reformed planning system?

Yes – TWBC is highly supportive of Neighbourhood Plans.

As set out in response to Q6 it is considered that Neighbourhood Plans can play a really important role in the development of design codes, including at a street by street scale. This is fine grain work that those communities are best placed to undertake, and in many instances the underlying work (assessment of character areas etc) will be longstanding and can be updated periodically.

Q13(b). How can the neighbourhood planning process be developed to meet our objectives, such as in the use of digital tools and reflecting community preferences about design?

In TWBC’s experience those groups involved in the production of Neighbourhood Plans are resourceful, energetic, engaging and highly conscientious. However, whilst the engagement undertaken may involve the full demographics of a community, the groups undertaking the majority of work on the Neighbourhood Plans themselves sometimes do not include younger people, and sometimes other members of the community. The reasons for this are complex, so any means by which digital tools can be used to further engage, and particularly to involve younger people and the less represented, in the “leg work” of producing a Neighbourhood Plan are welcomed.

Please see response to Q13a regarding design.

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?

Much of the White Paper takes aim at the planning system, and the decisions, actions and operation of LPAs as obstacles in the delivery of housing.

There are, undoubtedly, aspect of the planning system that can be improved, and TWBC has recognised this in response to the questions.

However, as has been widely reported, the lack of delivery of housing by developers – including land banking - is a key and fundamental element of this issue, so TWBC would very firmly and robustly support a stronger emphasis on build out.

The measures suggested are:

- a) the use of design codes as set out on page 43, to seek to include different developers;
- b) that for major and strategic non-flatted developments there is national policy that a certain percentage of plots be provided to genuine SMEs;
- c) 18-month implementation date for major planning applications;
- d) for major applications that the developer agrees a timetable for delivery (implementation, rate of build out, etc) with the LPA as a part of the application process, based on a set of nationally set expectations as to build out rate based on site size). Unless there are exceptional circumstances, if there are any delays to this, then the developer should pay the equivalent council tax on those properties which have not been built out in accordance with the agreed timetable, as an incentive for them to build out;
- e) although not directly related to the planning system: that increased, and highly accessible funding be available to SMEs;
- f) that where a site has an extant permission, or recent permission, is vacant and is stalled for a significant period of time, that Local Authorities, or Homes England, be given the ability to purchase the land through Compulsory Purchase Orders at a very low (and beneath market) rate, subject to the requirement that it be developed out in accordance with an agreed timetable. This should act as a direct incentive for landowners to build out and, if necessary, to reduce the level of profit (potentially to just break-even) or risk the loss of the site at a low value.

Pillar Two Planning for beautiful and sustainable places (page 44)

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

Well designed in many instances, particularly in relation to major developments. This has been achieved through both intensive and extensive negotiation with developers through the pre-application and the outline and reserved matters/full planning

application processes. This involves input from specialist officers and is time consuming and resource intensive. As set out in relation to earlier questions, it will be necessary for the future proposals to ensure there is sufficient time and resource at the relevant stages of the planning process: this is particularly the case at Local Plan stage, given the proposals for parameters to be set out at Growth and Renewal areas, and the suggested consenting regimes here.

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

Active travel and less reliance of cars

Energy efficiency of new buildings

Green and open spaces

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.

Q17. Do you agree with our proposals for improving the production and use of design guides and codes?

Yes

TWBC supports the commitment the Government is making towards increasing the role of good design in the planning system. Design codes and guides, whilst very different from each other, can be used to help secure good design and provide consistency in approach. However, high level design codes are difficult to apply and so local design codes/guides will be an important tool.

As detailed in response to questions 9a) and 13a) and b) TWBC considers that the Neighbourhood Planning system can have a very important role in this.

To repeat responses to previous questions, there will be a need for significant funding, time and skills to ensure that LPAs can produce meaningful and robust design codes and guides, and the work involved in this should not and cannot be underestimated.

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

Q18. Do you agree that we should establish a new body to support design coding and building better places, and that each authority should have a chief officer for design and place-making?

Yes

TWBC welcomes the focus on design as part of the planning and development process; this is an essential element of creating places in which people want to live, visit, and work. We also support the principle of providing a key contact within local authorities which will properly consider and prioritise design in the planning process. A key contact in this regard, for local communities, and to disseminate key updates from central government, would be of assistance.

However, the role of a chief officer for design, the proposals for which have merit, needs to be properly considered and fully resourced. Design and place making should be at the heart of planning decisions in any event, together with a variety of other material considerations (infrastructure, transport, sustainability), and it is important that those are similarly recognised in position and title. Accordingly, TWBC again must raise the issue of resourcing within LPAs to be able to fund such a position, and recruit suitable officers with the skills required: much will depend on the further detail as to what exactly the role of the chief officer should encompass which isn't already provided for in the LPA.

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

Q19. Do you agree with our proposal to consider how design might be given greater emphasis in the strategic objectives for Homes England?

Yes

TWBC firmly believes design should be a clearly defined and important strategic objective for Homes England.

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

Q20. Do you agree with our proposals for implementing a fast-track for beauty?

Not sure

Whilst TWBC welcomes the increased focus on design in the planning process, proposals to fast track applications "for beauty" need to be embedded by substance and must be meaningful. Good design is not just an attractive building; it is a combination of

factors which properly considers the surrounding environment, parking, landscaping, public realm, and ecology, etc.

Only proposals which have properly considered all the various matters which combine to create “beautiful places” should be considered for a fast track process, and we note this will involve a large amount of information upfront to provide confidence to the LPA, and communities, that proposals are acceptable. TWBC has provided comment in response to Q.10 on the proposals to streamline the information submitted in support of an application, and it is difficult to reconcile the drive to streamline with the information required to justify such design. In response to previous questions, TWBC has highlighted the resources, skills and time that would be needed to embed these matters into the proposed new style of Local Plan.

In response to the three specific proposals on page 52:

- TWBC supports the updating of the NPPF to make clear that schemes which comply with local design guides and codes have a positive advantage and greater certainty about their prospects than those that do not; and
- TWBC supports the use of design codes and guides, showing a proportionate level of detail, in Local Plans, with neighbourhood plans showing that finer grain level, subject to the previously stated concerns being addressed.

However, TWBC does not support the changes and widening of permitted development rights for *renewal* areas, in the absence of further detail.

If the system is changed so that there is a streamlined application approach for *renewal* areas, there should still be required meaningful assessment by the LPA to ensure that key design requirements are being met, and that standardised, bland and uninspiring development is resisted: this is unlikely to be achievable through the prior notification process briefly set out in the White Paper.

History has shown that in many instances expansions of permitted development rights result in unorthodox approaches to meet the requirements, at the expense of design and architectural quality, and it is extremely difficult to envisage how nationally set parameters will reflect local circumstances, between settlements, within settlements and even within streets. If these are to be introduced, it should be clear that the permitted development can only come into effect once a LPA or Neighbourhood Plan has produced and adopted the detailed design codes and not before. To allow conformity “in the absence of those, the National Model Design Code guidance” to be the defining standards will potentially have the opposite effect of raising design standards. The importance of local character cannot be emphasised enough

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.

There is no specific question on this proposal, but in principle this is welcomed.

The environmental impact assessment requirements (writing and reviewing EIA, SEA and SA) are extremely time consuming for planning departments, both as part of planning policy and also in the context of planning applications, and it is agreed that a review of the tangible value-added should be undertaken and a more effective system should be explored. There is clearly merit in streamlining and/or combining the various levels of environmental assessment (HRA, SA, SEA, EIA) but any changes should lay down clear triggers, processes, and methods to avoid uncertainty and should strengthen protection of the natural environment.

TWBC also considers that the current NPPF does not provide enough specific detail on many environmental topics. It should be expanded upon as it is too simple, vague, and in parts, contradictory. For example, paragraph 148 currently refers to the need for radical reductions in emissions and yet there is no explanation of how these should be achieved, only general references to transport and renewable energy, neither of which would constitute a 'radical' change. There is opportunity for the proposed changes to deliver a step change in climate change and maximisation of environmental benefits, including through the NPPF, and TWBC urges that this opportunity be seized.

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.

There is no specific question on this proposal, but in principle this is welcomed.

As detailed in the response to Proposal 15, the environmental impact assessment requirements (writing and reviewing EIA, SEA and SA) are extremely time consuming for planning departments, both as part of planning policy and also in the context of planning applications, and it is agreed that a review of the tangible value-added should be undertaken and a more effective system should be explored. There is clearly merit in streamlining and/or combining the various levels of environmental assessment (HRA, SA, SEA, EIA) but any changes should lay down clear triggers, processes, and methods to avoid uncertainty and should strengthen protection of the natural environment.

TWBC welcomes the continued commitment to make biodiversity net gain mandatory for most development, but it is important that the mitigation hierarchy remains central to decision making and that developers fund long-term monitoring of net gain scheme; however it is concerned that local environmental context will be lost if the intention is to move away from policies within Local Plans.

TWBC is also concerned that the proposal is suggesting data will be provided for local authorities to negate the need for local surveys. It is hard to understand how this could be possible when many environmental topics are entirely unique to a site, e.g. landscape views, noise and air impacts, drainage and flooding, biodiversity, pollution, historic environment.

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

There is no specific question on this proposal, but in principle the suggestions are welcomed.

TWBC would set out that the process for “autonomy” for routine listed building consents for suitably experienced architectural specialists should include a brief period for review and confirmation by the LPA of the proposed action of the specialist. This should not be onerous for the LPA, listed building owner or architectural specialist, but is considered necessary to ensure that there is independent verification.

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.

There is no specific question on this proposal, but in principle the suggestions are welcomed, and TWBC agrees that the proposal that homes built under the new planning system should never require retrofitting in the future.

TWBC is very pleased to hear that Government is reviewing the role that Local Authorities can play in setting local standards on energy efficiency, and feels strongly that this is not a policy that can (currently) be centralised, without causing a set back on the path to carbon neutrality. Government must take into account that many local authorities have set their own, more ambitious, targets for net zero emissions which will require more aggressive cuts in emissions than central government is planning for.

TWBC agrees that a greater focus on enforcement is critical. It is natural that changes are made as a development progresses through construction and the ‘performance gap’ has been discussed in the past (see work by the Zero Carbon Hub). Without stricter controls on build this will continue. Planning conditions are not sufficient or effective at managing this problem. Furthermore, resourcing will be key in ensuring that critical issues such as decarbonisation are addressed through the necessary design codes

TWBC expects the Government to provide more details on what ambitious improvements will involve and whether they can be implemented. It will also be important for the Government to provide clarity as to how other renewable energy related developments can contribute to achieving net zero emissions.

Pillar Three Planning for infrastructure and connected places (page 60)

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

Please see the response in relation to Q4, but in short:

The funding and timely delivery of infrastructure;

The delivery of genuinely affordable housing;

Supporting the high street and local economy;

Protection of heritage assets and open areas, important landscape designations, the Green Belt and areas of risk of flooding;

Design;

Proposals that mitigate climate change.

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.

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

Not sure

The principle of simplifying developer contributions to one Levy is welcomed. This will provide greater certainty to both developers and Local Planning Authorities on bringing forward developments.

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

TWBC considers a local approach to the Infrastructure Levy would be appropriate, to reflect local affordability, market conditions and area-wide circumstances. Such matters are difficult to determine at a national or indeed regional level and provide the funding needed to deliver infrastructure in a meaningful way. Whilst TWBC notes the intention to simplify the overall system, we consider a more nuanced approach is appropriate in this case.

Q22(c). Should the Infrastructure Levy aim to capture the same amount of value overall, or more value, to support greater investment in infrastructure, affordable housing and local communities?

More value

A careful balance needs to be struck in terms of capturing value from development to invest into physical and social infrastructure, but ensuring developments remain viable so they are delivered at the pace required to meet the needs of local areas. This requires detailed analysis and consideration, and sufficient flexibility in the system to accommodate change.

However, TWBC wishes to express in the strongest terms that the maximum amount of uplift in land value (above that for developers to make a reasonable profit, and for landowners to release the land) should be captured to be invested in social, green, and physical infrastructure. Infrastructure provision across the country is suffering from years of underinvestment. Development is often unpopular with residents, but one means to address that is for infrastructure to be delivered which not only mitigates the impact that that development will have, but – and this will vary across the country depending on land values – can also deliver significant infrastructural betterment for the benefit of existing communities.

This will require a fundamental adjustment to the principles of the planning system, and it appears to TWBC that the opportunity to do this would be as part of the widespread proposals outlined in the White Paper. If it is not taken now, the opportunity will be missed for a substantial period of time.

Q22(d). Should we allow local authorities to borrow against the Infrastructure Levy, to support infrastructure delivery in their area?

No

TWBC has provided a very strong, positive response in relation to Q22c. However, it must express its strong concern at, and objection to, the proposals that Local Authorities take on the risk of infrastructure funding and provision without the finances being provided until the point of occupation.

Investment is required at the outset of most development schemes, and if an LPA is not in receipt of this money from the point of commencement, there is a gap in funding. Firstly, it is important to note that in many instances in two tier local government areas, the LPA (at borough and district level) will not be the infrastructure provider, which often will be the role of the county council.

Secondly, TWBC notes the suggestion is for LPAs to borrow this money from the Levy to support development by allowing investment in infrastructure delivery, but this unfairly places the risk with the LPA. The LPA is unable to guarantee completion or occupation of development, and if money is spent and a development is left incomplete or does not start, the budget deficit will be with the LPA. In times of ongoing austerity – amplified by the increased burdens placed on authorities through additional services and incomes as a result of the Covid-19 pandemic - this risk will not sit comfortably with many LPAs and could see many larger development schemes not coming forward, or infrastructure not being delivered in a timely manner.

A staggered approach to contributions would be more sensible, including on commencement of works, to allow the infrastructure requirements for each stage of development to be provided, with the LPA administering the contributions to the relevant infrastructure providers, on the basis of agreed local priorities (please see response to Q25).

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

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

Yes

It is extremely important that the Infrastructure Levy includes a charge on development which is bought forward under permitted development rights. With the Government increasing the scope of development which can be delivered without “planning permission”, there is a real risk that the essential infrastructure which is required to meet the needs stemming from additional housing growth and increase in non-residential floorspace will not be met.

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

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

Yes, if not more

Affordability in the housing market remains an ongoing issue, and a matter that requires priority in the new planning system to ensure the situation doesn't worsen under the new regime. Onsite provision allows for proper integration of different housing tenures into communities, and ensures housing is delivered expeditiously.

This should be the preference for schemes being bought forward and relevant legislation should be properly worded to require this in most instances. However, it is prudent to ensure flexibility is built in to provide the ability to enable off-site provision through the Levy to be provided in appropriate circumstances. Many local authorities are no longer stock holding, and have no/limited land, and therefore lack the means to provide affordable housing themselves.

There is the opportunity to address the underlying legislative framework to provide an alternative to S.106 agreements as the means to deliver affordable housing.

Q24(b). Should affordable housing be secured as in-kind payment towards the Infrastructure Levy, or as a 'right to purchase' at discounted rates for local authorities?

As above, TWBC is firmly of the view that on-site provision allows for proper integration of different housing tenures into communities, and ensures housing is delivered expeditiously. This should be the preference for schemes being bought forward and relevant legislation should be properly worded to require this in most instances. However, it is prudent to ensure flexibility is built in to provide the ability to enable off-site provision through the Levy to be provided in appropriate circumstances. Many local authorities are no longer stock holding, and have no/limited land, and therefore lack the means to provide affordable housing themselves.

There is the opportunity to address the underlying legislative framework to provide an alternative to S.106 agreements as the means to deliver affordable housing.

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

Yes

It is essential to mitigate against local authority over payment risk if this route is chosen. The risk of such investment should not be with the local authority who has limited control on developers delivering development on the ground.

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

Yes

Standardised requirements to meet set design and quality criteria. One of the few areas where this can be set nationally.

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

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

Yes

It would be very positive to enable local authorities to determine where and how to spend the money raised through the Infrastructure Levy. It would enable spending to be directed towards key investment deliverables most effectively, which is only fully understood by authorities on the ground.

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

Yes - it is prudent that affordable housing is delivered as a priority, nationally, and for TWBC, locally.

Delivering change

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. In doing so, we propose this strategy will be developed including the following key elements:

No questions are posed under this section, even though it is of key importance.

TWBC has made repeated reference to the need for sufficient resourcing, funding, skills, technology, and expertise to deliver the proposals. The methods set out to do so seem sensible in principle, but TWBC wishes to express its view in the strongest terms that the financial resourcing of planning services, funded largely through the uplift in land value, is fundamental.

Most LPAs now operate extremely leanly, and certainly in the case of TWBC, efficiently. However, in many instances it could work even more efficiently, and quickly, with additional resources. The proposals set out in the White Paper will require that additional resource, and will not work, and indeed run the serious risk of worsening the situation, if the “ring fenced” funding and resourcing is not made available.

Finally, TWBC considers that there is a need for the stance taken by Government to the role of LPAs. Those that operate within it, both Members and Officers, are conscientious, dedicated, and skilled in the face of huge pressure. However, LPAs are routinely criticised, and it considered necessary for public and development confidence that LPAs are not continually “knocked” but rather are recognised positively for the difficult decisions which are made, and the fundamental role which they play in shaping the country, economy, and society.

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

No questions are posed under this section, and scant detail is provided even though it is of key importance. TWBC cannot therefore comment on this proposal.