



Planning White Paper – response from ADEPT

October 2020

The Association of Directors of Environment, Economy, Planning & Transport ([ADEPT](#)) is a professional association that represents executive ‘directors of place’ from county, unitary and combined authorities, along with directors of local enterprise partnerships, sub-national transport bodies and corporate partners drawn from key service sectors. More than two thirds of households in England rely on services provided by ADEPT members including housing, environmental and regulatory services, planning, development, culture, and highways and transport. ADEPT represents its members’ interests by proactively engaging Government on emerging policies & issues, promoting initiatives aimed at influencing government policy, and through the sharing of best practice, professional networking and development opportunities. Our strategic priorities include climate change and the environment, infrastructure and communities; and place-based funding.

Overall, we are supportive of the ambition to create a more locally engaging, simplified and responsive planning system. The current system has become overly process based and complicated, with more of a focus on numbers and addressing risk than true place shaping. The Planning White Paper (hereafter White Paper) is undoubtedly the most radical set of proposals to be put forward by any Government since the creation of the planning system in 1947, not least because it seeks to fundamentally move from a discretionary system based on local democratic decision-making to a hybrid, rules-based zonal approach not seen anywhere else in the world.

We consider that the proposed reforms as set out in the White Paper require more evidence to substantiate them. As presented, the paper sees the planning process and planning system as about regulation and control rather than achieving wider sustainable outcomes. Our key messages are:

1. We share the ambition to create a locally led planning regime that can act at pace to help create sustainable places. ADEPT would like to offer to work with the Government to develop the details that must follow this White Paper, and would welcome the opportunity to assist in the development of any further legislation, policy and guidance within any updated framework that the government intends to produce. ADEPT considers that successful housing delivery will require both better scale and cross-boundary planning aligned to infrastructure delivery and this should be in the detail to be published for all three pillars. Our offer is to work with the Government to improve the proposals and develop the necessary details which should help alleviate concerns about less local democratic involvement, a climate focus and levelling-up the distribution of resources.
2. The White Paper remains fairly high level in its content; the detail will be key to understanding how this will truly impact on local communities.
3. The current proposals risk being undemocratic from a local authority perspective, given the future role it envisages for elected councillors and the significantly limited influence that local people will have in relation to decisions about their towns, cities and neighbourhoods through further deregulation.

4. The White Paper misses a once-in-a-generation opportunity to place the climate and biodiversity emergencies at the heart of the English planning system.
5. There is a real opportunity to use the White Paper reforms to support creating a post-Covid world where communities are designed to be healthier.
6. The proposals are likely to lead to increased inequalities across the country through an unfair distribution of resources that favours higher value areas such as London and parts of the South East, disenfranchising local communities in the process.
7. Whilst a stronger emphasis on building out rather than gaining consent and not progressing development is welcome, the proposals offer little in support for LPAs to act. In fact, they appear to penalise the LPA for the actions of developers or other factors outside of their control. It is worth noting that analysis by the Local Government Association ([February 2020](#)) found that more than a million homes granted planning permission in the past decade have not yet been built. In addition, the number of planning permissions granted for new homes has almost doubled since 2012/13, with councils approving 9 in 10 applications.
8. While in some cases there will be a time lag between permission being granted and homes being built, new build completions have only increased by half as much in that time. Encouragingly, completions last year were the highest in any single year in the past decade.
9. Whilst the need for housing is well understood, there is too much emphasis on housing requirement in the White Paper - greater focus needs to be given to economic development, employment and skills, wider roll-out and coverage of superfast broadband, and public health and well-being, of which there is no or little mention.
10. Many of the proposed reforms in the White Paper are aimed at bringing more standardisation to the planning system, particularly with a range of nationally set, top-down targets, standards and requirements. This does not reflect the local social, economic, environmental and financial challenges that affect many local authorities.
11. There is a lack of clarity and detail in the White Paper on the role, function and operation of strategic planning across Local Planning Authority (LPA) boundaries. In this context we support the general principles of the proposals published by the County Councils Network on the 21st October, which sets out that closer collaboration between all leading parties in setting out long-term visions for their areas will help reinvigorate strategic planning.

Planning should involve considerations about what a society wants from urban change, to what extent governments should limit the operation of the market in pursuit of private interests and finally, what the government should deliver in the public interest. Therefore, at the heart of planning are issues of democracy. What the White Paper brings to a head is a clash between competing visions for the future of planning: one based on a centralised, rules-based, streamlined, fast and deregulated structure versus a values-based approach that is democratic, transparent, accountable, equitable, outcome-focussed and which positively promotes the achievement of sustainable development. The White Paper proposes change based on the first of these visions for the future. The choices made now will define the future for several generations to come.

The White Paper (p10) states that the planning system is central to our most important national challenges including combating climate change, improving biodiversity and supporting sustainable growth. However, it then fails to set out proposals to deliver these goals. In addition, the consultation document gives no opportunity to comment on these vital issues beyond describing local priorities for sustainability (Q16). Planning must help tackle the climate emergency: the planning system must be designed to help deliver the low/zero carbon, climate resilient places that are needed. The White Paper fails to address this. The government needs to ensure that the forthcoming National Planning Policy Framework (NPPF) and supporting guidance do so.

The White Paper proposes a radical change to the way in which monies are collected for developments, by replacing the Community Infrastructure Levy (CIL) and the use of Section 106 agreements by a new Infrastructure Levy. The introduction of an Infrastructure Levy could simplify the current mixed pattern of CIL and S106. However, there are concerns about the introduction of a mandatory, nationally-set rate based on a proportion of the development value above a certain threshold. This could mean that the Infrastructure Levy would not be payable if those developments do not meet the minimum threshold. Furthermore, it would only be payable on the proportion of the value that exceeds the minimum threshold. Many areas of the country, particularly outside the South-East, have marginal viability. There is a real risk that low value areas under the new system result in LPAs being unable to secure contributions towards new infrastructure. This means that those same local authorities will be left carrying the financial burden of mitigating the wider impacts of development.

Furthermore, the proposed calculation does not consider the wide variation in site specific acquisition and enabling costs, for example land value, demolition and remediation. Such an omission of half of the contributing factors to a scheme's viability will inevitably mean a combination of the following outcomes:

1. Large numbers of sites (especially brownfield) become unviable
2. The delivery of housing is slowed
3. The rates are set so low that they do not deliver infrastructure to at least current levels
4. Planning gain from the increase in land values upon planning consent will not be captured on sites that can afford it, particularly on strategic greenfield sites.

The lack of any detail of how the new system would work in two-tier areas raises many concerns and uncertainties for county councils, and how they would secure developer contributions for service provision and new infrastructure in the future.

ADEPT members have cited examples of CIL rates having been set too low when compared to potential Section 106 contributions that could have been obtained from comparable scales of development. Similar concerns would be applicable to a national Infrastructure Levy and whether this could achieve the appropriate scale of planning gain for communities.

It is unclear how site-specific infrastructure that is required for the functioning of individual sites would be secured. We would want to understand how the Infrastructure Levy would work in this respect. There is also the potential that adding affordable housing to a possible use for the Infrastructure Levy, along with proposals in White Paper that the levy could also be used to support other council services and subsidise council tax, further reduces funding available for infrastructure.

The White Paper also only seems to focus on financial payments for infrastructure and its proposals to abolish CIL and Section 106 agreements. Whilst this is appropriate for CIL, Section 106 agreements have a broader use than just the provision of financial contributions. Obligations contained within S106 Agreements can:

- restrict the development and use of land in a specified way
- require specified operations or activities to be carried out
- mitigate the impact of a development that would otherwise make the development proposed unacceptable in planning terms, where planning conditions alone would not suffice.

This functionality of S106 seems to have been overlooked in the White Paper. It is unclear how this will be replicated in the new system or indeed if it is just the financial contribution element of S106 that is to be scaled back.

The White Paper is also not clear (other than for affordable housing) whether works in kind by developers would be an offset against a development's Infrastructure Levy liability or indeed how these non-financial types of obligation would be addressed, should Section 106 agreements no longer be available within the new system.

As the new levy would be charged on occupation of new development, there would be more onus on local authorities to forward fund new infrastructure. This could expose them to increased financial risk, particularly to fund larger strategic scale infrastructure, such as highways improvements and school place provision.

Aside from the lack of current detail about what new plans will actually contain, how they will be tested and what level of evidence might be required, any new approach will need to embed itself within the working practices, skill levels and resources of LPAs and all others involved in the development process. Where extra resource is mentioned in the White Paper this is in terms of reskilling, changing roles and retitling of chief officers rather than significant new resource. Furthermore, if Local Plans were to enable an automatic permission as proposed in the White Paper, it implies more resources would need to be directed at the plan making stage to ensure all issues are understood and appropriately planned for. This also includes statutory consultees, where potentially there could be shift in who provides evidence from developer to consultee to protect assets. In addition to diverting resource from the development management phase to the plan making stage, there is a need to factor in much quicker timeframes for delivery.

The planning, funding and delivery of infrastructure is a key concern in the proposals, which do little to address the uncertainty around what infrastructure should be funded locally or nationally via central Government departments. Or in a levy-based approach, what certainty can be given to communities that accept growth over what infrastructure may be delivered in support when decisions are to be made at a different time and against other competing priorities.

The ambition to reduce unnecessary process that has become embedded in planning is welcome, as it will allow planners to get back to what they do best - place shaping. It is noted that the White Paper sets out several matters of principle with detail on how to achieve these outcomes to follow. ADEPT would be happy to assist in filling in these spaces.

The White Paper has a strong focus on housing delivery and proposes changes to the planning system to that end. No real consideration is given to other types of development, and no specific reference is made to the operation of the minerals and waste planning system. Planning is about so much more than housing: minerals are essential for development and the economy, and the waste arising from houses and the economy needs to be managed. It is not clear therefore whether the changes proposed will apply to waste and minerals planning.

When viewed in the context of housing provision, waste management and minerals supply are a strategic matter. As minerals can only be worked in certain locations, it is hard to see how allocation of sites for extraction fits with the proposed system of Growth, Renewal and Protected Areas. The White Paper states that 'Protected Areas' "*would also include areas of open countryside outside of land in Growth or Renewal Areas*". In identifying such areas, there is a need to take account of the fact that economic minerals which may need to be worked in future underlie open countryside, that the tests that apply to enable such development in these areas (such as 'exceptional circumstances' in AONBs and National Parks) and the acknowledgement that minerals extraction is not necessarily harmful (e.g. 'not inappropriate' in Green Belt, compatible in Flood Zones) must continue to apply and not become more onerous.

The 'permission in principle' proposed for Growth Areas could be translated and applied to allocated sites (for minerals or waste), while the 'presumption in favour of development' proposed for Renewal Areas could apply to Preferred Areas for minerals, to provide greater certainty (while acknowledging that outline permission does not apply to minerals extraction and so the terms of the 'permission in principle' would need further consideration). It is important to recognise that any shift in the burden of requirements on planning authorities away from dealing with planning applications and towards plan making (as suggested by the White Paper) might lead to lost application fees received by the LPA, and could therefore actually reduce the resources available to LPAs to run this new planning framework.

It is important that a mechanism is put in place to ensure that the identification of Growth and Renewal Zones will not jeopardise existing waste and minerals infrastructure (including wharves and railheads) and takes account of mineral safeguarding areas (i.e. areas where economic mineral geology exists) and the 'Agent of Change' principle is continued to be applied.

Mineral safeguarding areas should default to the category of Protected Zones with the same requirements for full planning application for development within these areas i.e. Development can come forward subject to a planning application demonstrating impact on the economic mineral.

The White Paper removes the Duty to Cooperate mechanism as a means by which local authorities are expected to co-operate as they plan for matters which are larger than local. We are supportive of this; the mechanism has not been entirely effective in ensuring that waste management and minerals supply are planned for at the strategic level. However, it will need to be replaced by other mechanism/s.

Removal of requirement for Strategic Assessment is supported if replaced by rigorous assessment of how the Plan constitutes 'sustainable development'. With regards to the proposal to replace the current tests of soundness with a single 'sustainable development' test, it isn't clear whether this will in fact be adequate. For there to be confidence that Local Plans are planning for future development appropriately, they will always have to be justified, effective, consistent with national policy and positively prepared based on objectively assessed need. On this basis, any single 'sustainable development' test of the soundness of plans will need to incorporate these elements and show how they are to be tested.

A stronger link to energy from waste and heat use (e.g. via district heating networks) to maximise Energy from Waste (EfW) plant efficiency should be provided for within the proposed national suite of development management policies.

Waste and Minerals Local Plans are usually contentious, and the evidence required to justify such plans needs to be rigorous and effective. Reducing the standard of evidence required is likely to erode public trust in the planning system and may have detrimental impacts on the environment and communities. Reducing the opportunities for the public to engage with the planning process through consultation is likely to exacerbate the erosion of public trust in the system and in democracy.

Greater focus should be provided, as the proposals in the White Paper are developed, on the role that planning and the built environment should play in promoting healthy communities. It is essential that a reformed planning system delivers housing numbers within well-designed places that support public health outcomes. Within any new arrangements, Local Plans need to consider specific issues related to an ageing population, or particular needs of the local population in relation to long term health conditions and disability. We would welcome a strengthening of proposals in the White Paper, that

reflect the NPPF guidance in relation to an ageing population and housing to support people with disabilities. This is particularly relevant in the context of the current COVID-19 pandemic.

In an attempt to deliver communities that promote healthy lifestyles and well-being, an overhauled system should urge development proposals to be supported with health impact assessments and engagement with public and environmental health bodies. This engagement should take place during both plan-making and decision-making processes.

In addition to promoting healthy communities, the government must assure itself that places planned in the future promote equality. This is an aim that is fundamental to delivering good growth and should be echoed at the national scale.

Questions

Set out below are ADEPT's answers to the consultation questions. We have responded 'not sure' to a number of the questions. This should not be taken as an indication of indecision; it reflects the fact that the questions cover complex issues and the White Paper lacks sufficient detail for ADEPT to confidently provide a positive or negative response. We do however set out in detail our position for each question where they are relevant to the association.

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

We have chosen not to respond to this question.

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

[No]

2(a). If no, why not?

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

N/A to ADEPT

3. Our proposals will make it much easier to access plans and contribute your views to planning decisions. How would you like to find out about plans and planning proposals in the future?

[Social media / Online news / Newspaper / By post / Other – please specify]

N/A to ADEPT

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

[Building homes for young people / building homes for the homeless / Protection of green spaces / The environment, biodiversity and action on climate change / Increasing the affordability of housing / The design of new homes and places / Supporting the high street / Supporting the local economy / More or better local infrastructure / Protection of existing heritage buildings or areas / Other – please specify]

N/A to ADEPT

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

We agree with the overarching aim of simplifying the planning system and making it more accessible for residents to navigate. In principle the proposal to make local plans more visual and categorising land into three categories – growth, renewal and protected – is broadly supported. However, the White Paper provides little detail on how this would work in practice. There will need to be clear guidance and Government should ensure that this simplification does not result in unintended consequences, such as development being consented without the necessary infrastructure secured.

There is also a concern that the new system, particularly the lack of engagement during the 12-month period for developing the plan, could risk public perception that decisions are being made behind closed doors.

Further guidance will be required to clarify what constitutes substantial development for the purpose of designating growth areas, in particular whether there is any distinction between what is considered substantial development in urban compared to rural areas. Is it Government's intention to allow the definition of substantial development to be set at a local level?

We consider that the process should be more outcome focussed, for example, demanding that places are shaped with health and wellbeing in mind. There could be a danger in seeing 'growth', 'renewal' and 'protected' areas as separate places rather than part of a coherent whole system.

There is also the potential for some confusion over the renewal areas as the term implies this would be largely focused around densifying/infilling existing urban areas; but in rural authority areas could also constitute small sites within or on the edge of villages, which could form a significant part of any growth strategy, especially in authorities with significant areas of Green Belt. Major constraints such as flood risk are not considered with regards to renewal areas, many areas of previously/already developed land are in areas of flood risk; therefore, it can't be assumed that all redevelopment/renewal is acceptable on flood risk grounds.

We are also concerned that the identification of three types of land ('growth', 'renewal' and 'protected') will not be easy. Attempting to identify such types would require significant additional resourcing and time compared to the current process of preparing local plans. At the moment detailed assessments of land tend to be undertaken by developers as part of proposals for development, yet the proposed approach implies more assessment being undertaken by the LPA. In some cases, the level of detail required may not be possible – for example not all significant heritage assets (such as archaeological assets) are known, and therefore they cannot be assigned to 'protected' zones in advance.

Equally, there is no clarity on what controls can be applied to the zones to ensure the appropriate type and mix of development comes forward and to guard against incompatible uses. Particularly for the growth zones, as it is assumed that the principle is acceptable for all types of development. It would therefore be beneficial if there was the flexibility to restrict certain growth zones (or parts thereof) to specific uses. For example, a growth zone off the strategic road network may be highly suitable for industrial or logistics uses, but a wholly inappropriate location for residential development. Therefore, there should be flexibility to designate the type of development that is acceptable in growth zones to ensure that the right development is taking place in the right location. The use of local design guides and codes should allow for all issues, constraints and opportunities within the local context to be considered rather than focusing on design issues only.

However, there is always a balance to be struck between the need for certainty and the need for flexibility to reflect changing circumstances. Whilst greater certainty on the principle of development would be provided through a revised role for Local Plans granting outline planning permission, it appears the proposed three standard classifications set out in Proposal 1 are being used to remove democratic consideration later in the planning process. This effectively will disfranchise communities despite the claims of the White Paper to the contrary.

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

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

We can see the rationale for a clear and consistent national standard set of policies on certain generic matters faced by all development across the country, such as energy efficiency standards, nationally described space standards, waste management etc. However, if applied across all policy areas, such an approach would fail to recognise that certain areas face different local challenges that require bespoke policy approaches.

A generic prescribed national approach to all development management matters is unlikely to be sufficiently responsive to such issues. As such, we would support the approach set out in the alternative option, whereby local authorities can still provide a locally specific approach to certain issues where they are able to demonstrate that exceptional circumstances require a local approach.

In delivering the proposed approach however there is the question how do Local Authorities ensure they have the necessary skills to undertake the very challenging levels of master planning and design codes to prepare the Local Plans in such a short space of time? Council resources have necessitated that a large number of councils have had to dispense with their urban designers, landscape architects and in-house architects and it is unlikely that councils will have the financial resources to employ private consultants to undertake the work. In addition, who is expected to undertake the upfront work of assessing flood risk and drainage issues, which would usually be undertaken by the developer? Government must ensure that they support and enable local authorities to have the necessary resources to adapt to the implications of the White Paper.

A solution to the above could be to incentivise landowners and developers to work proactively with the LPA at the Local Plan stage, and also help to speed up the development process because a landowner has already invested in getting their site ready for development.

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

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

It is acknowledged that the current system for environmental assessment through Sustainability Appraisal (SA) is onerous and subject to continuing disagreement at examination. It also can be viewed as a target for legal challenge on procedural/process grounds. A new system is therefore welcomed. However, any replacement will need to be sufficiently rigorous to ensure that the environmental impact of development proposals can be judged against other proposals on a fair and consistent basis. There is also concern over what would constitute “sustainable development” in the test and whether this could have unintended consequence of giving support to development in locations not considered appropriate locally but meet a ‘nationally’ derived criteria.

We would not support the alternative option as the uncertainty around what sites may or may not come forward provides no clarity to communities about how their locality could change over time. It would also add unnecessary complications to the planning, timing and delivery of necessary infrastructure to support growth.

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

Historically, the Duty to Cooperate has had limited success in ensuring that local plans provide adequate solutions that address strategic planning matters. The bureaucratic process involved with the Duty to Cooperate have inhibited creative plan-making over the last 10 years; and caused delays and uncertainty in strategic planning that has in part been responsible for much of the slow pace cited in the preparation of Local Plans.

However, at the very least, the Duty to Cooperate has encouraged discussion and communication on cross boundary, larger-scale planning matters. Moving forward, co-operation across authority boundaries should be required by legislation and regulation. Such cooperation is essential in bringing forward development of certain sites and dealing with wider infrastructure needs. It is disappointing that the white paper has not presented an alternative way of achieving this. In the absence of a statutory duty, any replacement mechanisms to address cross-boundary matters should reflect the democratic will of local authorities to work together for the shared good. Currently, the Duty to Cooperate incentivises urban authorities to evidence an unmet housing need but does not give an incentive to ensure these displaced needs are accommodated sustainably elsewhere once their plan is adopted, any new process should correct such behaviour.

The White Paper suggests that Plans should be informed by appropriate infrastructure planning but is vague on detail. This again is an area where the Duty to Cooperate has not been as effective as it should have been. Revisions to the NPPF and national guidance should make it clear that Plans must consider the infrastructure requirements of their proposals across administrative boundaries and where issues are identified agree with the relevant infrastructure provider/s what works/schemes are required and how they will be funded.

It is noted that the White Paper makes little, if any, reference to strategic employment sites. The current system sees Plans considering local needs leaving uncertainty over where the next strategic or inward investment opportunity site may come from. Any replacement for the Duty to Cooperate should provide clarity on how 'larger than local' employment needs are considered and how large-scale inward investment opportunities could be realised.

There is a need for genuinely strategic planning (missing from the Paper). That must be acknowledged and supported in any new legislation and/or Guidance to support the delivery of that approach. Authorities need the comfort that strategic plans will be judged against truly strategic criteria. This represents a major gap in the proposals and is critical to effective forward planning in two tier areas. A growing number of upper and lower tier authorities across the country have come together in the last few years to prepare longer-term statutory and non-statutory strategic plans for their areas. This has largely been in the context of major announcements by Government since 2017 that it attaches high priority to strategic planning and strategic plan making. It is disappointing, therefore, that the White Paper does not give more recognition to this issue. Proposals for the reform of local plans indicate that plans would be required to have a time horizon of 10 years, compared to the current 15 years. This shorter timescale would be unlikely to facilitate robust and effective strategic planning for an area.

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

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

It is clear that the previous system of calculating objectively assessed housing needs has caused significant historic delays, costs and uncertainties in the Local Plan process. However, as the current standard method fails to take into account site opportunities and constraints, Local Plans still experience significant delays under the Duty to Co-operate where they are either declaring an unmet need or assessing their ability to accommodate an unmet need. Focus has shifted of recent to the housing number rather than true place making.

The housing standard methodology set out in Proposal 4 centralises control of setting local housing targets, with Whitehall, using processes and procedures that the White Paper is silent on, to make judgements about local environmental constraints. The White Paper appears to suggest a permissive strategic planning approach but with no legislative provisions to secure the proper provision and consideration of cross-border issues that are best assessed on a wider functional spatial level, so as to ensure sound strategic planning and policy interventions to deliver sustainable patterns of development.

The White Paper sets out 6 criteria a national standard method should have regard to. Further clarity and detail are required here to better understand how the method may work at a local level. Should the standard approach also include a measure of job density as part of it?

There is no doubt that existing urban areas often form the most sustainable location on which to focus new growth. However, it should be highlighted that in the wake of the COVID-19 pandemic, there has been a shift in attitude towards where certain sectors of the population want to live. There has been an increase in people wishing to move away from densely populated urban areas to more rural settings. Thus, when it comes to meeting a set housing target more thought must be given to the problem than simply proposing to densify brownfield sites.

It is welcomed that other factors will also be taken into account in determining housing requirements through the standard methodology, such as key land constraints, including Green Belt and National Parks, and other high value environmental protection areas. However, it is of concern that the White Paper provides no details of how such land constraints will be factored in to the assessment, i.e. is the balance of need versus constraints and other issues to be an algorithmic exercise or one that involves an exercise of planning judgment?

Proposal 4 focuses on distributing the national housebuilding target of 300,000 new homes annually and appears to concentrate on the divvying up of the target using the 6 criteria. However, there is no reference here to the 'Levelling up' agenda.

The apportionment of a national house building target across England and the subsequent Plans that will follow could be seen as a de facto housing plan for England but would be missing any true policy on national distribution.

If this proposal goes forward, it will be essential to consider how sites accommodate land for environmental and sustainable infrastructure. This should take the form of a 'worst case' scenario, so sufficient space is left (for example for drainage and water management), this could render large areas unviable for development due to potential flood risk (which may not exist – but can't be ascertained without testing) unless considered at the earliest stage of site planning. There will also need to be a

lot more consideration to the locations of public open space and a willingness to use them for multiple planning objectives, including temporary water storage.

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

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

These appear to be sensible suggestions as a starting point to determine the quantity of development but should not be used in isolation. There are also questions over how this approach would support the establishment of new settlements.

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

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

We support the principle of providing greater clarity that Growth areas should be acceptable, in-principle, for development. However, this will only be consistent with the objectives to provide local infrastructure/environmental safeguards if new powers to control key scheme parameters are provided at the Development Management stage.

Under the current system the outline planning stage is vitally important in establishing the environmental impacts and infrastructure capacity of a site and any necessary mitigation. Much of the evidence to support this is collected and presented by the developer in a manner that would be difficult to achieve in the Local Plan process. The White Paper sets out the government's aim to provide a shortened 12-month timescale for both selecting and setting infrastructure requirements for growth zones through the Local Plan. Such a short timescale is unlikely to allow for all matters such as highways mitigation schemes, biodiversity offsetting, health infrastructure and on-site education provision to be fully confirmed for each growth zone/site. Equally, it is highly unusual for developers to proactively agree all such matters with the necessary infrastructure providers at the point of making their initial site suggestion.

Given the potential for site specific impacts and requirements to be undetermined at the adoption of the Plan it is vital that any reformed development management process allows for local authority control on environmental and infrastructure implications. This will mean that any areas allocated for growth should be subject to greater control at what would be the reserved matters stage in the current system. If indicative dwelling number or floorspace are expressed as minimums in Local Plans, as is currently the case, then this compounds the issue on not fully understanding the precise infrastructure requirements and environmental impacts at the point of adoption.

Whilst we appreciate a key driver of the current consultation is to accelerate actual housing delivery it should not be at the expense of well-considered plans. The government's intention to retain the Housing Delivery Test and to ensure the regular review of Local Plans where growth does not proceed at the rate initially anticipated should be incentive enough for local authorities and developer to work proactively to ensure the delivery of sufficient growth in each zone, whilst balancing this against the need for adequate infrastructure delivery and environmental mitigation

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

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

The same issues exist as under 9 (a). A faster and more streamlined approach is promised but with the pressures that LPA's and other consultees are under it is difficult to imagine how this will work in practice.

The acceptability of whether the approach to planning in protected areas would depend on several issues.

Apart from the lack of any locally based policies this would be dependent on having a robust set of policies within an updated NPPF and still requires the submission of a full planning application.

Clarity would be required at the Local / Development Plan review on what can be counted as a 'Protected Area'. National designations such as Green Belt, Listed Buildings and Conservations Areas, SSSI's should be protected. As should areas at risk of flood, whilst the White Paper states areas at 'significant' flood risk are included in protected areas, further clarity is required on what is classified as 'significant' and whether this will also include surface water, ground water and flooding from sewers, as well as fluvial flood risk which has historically had precedence in the NPPF over all other sources. Further guidance is also sought on the methodology and data that would be used to make this assessment of 'significant' flood risk. Many areas, particularly groundwater risked areas are unknown, or only known to locals who understand the risks, mapping of these areas will be extremely difficult and would lack standardisation of approach across the country. If an area at risk from groundwater flooding is overlooked, will the developer still have a right to build should these issues come to light once detailed assessment of the development proposal is underway?

Thought needs to be given to local designations e.g. Sites of Biological Interest, local parks allocated as Recreational Open Space and other important areas.

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

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

Given the long lead in times for new settlements combined with the proposals for 10 year plan periods, there is a logic to using the Nationally Significant Infrastructure Projects (NSIP) regime to bring forward new settlements that may take well in excess of 20 years from conception to completion. The powers conveyed by Development Consent Orders such as CPO and not requiring further detailed agreements could also help bring schemes together more swiftly and deliver at a greater pace. However, it is assumed that if this option were to be made available a new National Policy Statement on New Settlements would be required to establish what is acceptable. A key element of that would be that the proposal is supported locally. There is also an issue that the NSIP process is possibly more confusing and difficult to engage with for the general public.

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

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

Whilst the modernisation of procedures could potentially be welcomed, the thrust of the reforms is to place speed of decision-making above achieving sustainable planning outcomes for local communities. The White Paper also proposes sanctions on the LPA if mandatory time periods are not met, with planning fees having to be returned and consent automatically granted. Often the delays

are not due to the determining authority's actions, but due to waiting for information from the applicant or responses from statutory authorities. Pressure to make a decision, would likely result in a decision being made without all the information needed, and would likely increase the numbers of refusals.

Clarity is also required on the reduction in the amount of information required versus having enough information for planning officers and interested parties to assess the development proposal.

The White Paper implies greater standardisation of assessment and supporting information – including flood risk. This is of great concern, given the local nuances of flood risk from multiple and combined sources, which is often better understood at the local, as opposed to, the national level. The current standardised approaches to national mapping are an example of how a national generic approach can under-estimate or misrepresent risks, if this data is not verified at the local level as part of the approval process how can we be confident it is accurate/appropriate. Flood Risk Assessments must still be undertaken for all developments with the likelihood to impact flood risk (from any source).

Many flood risk issues need addressing as early as possible in the design process as they have implications for the size, scale, nature and layout of a development. The detailed design stage is too late for site-specific comments to be incorporated.

Local councils need the powers and resources to be able to enforce those who do not or will not comply. If rules/laws aren't set down at central government level, it is much harder to enforce them at local level – it also eats resources in the form of legal fees and officer time.

We welcome the pledge to have a specific, investable proposal for modernising planning systems in local government. This would include modernising planning software and the way cases are managed.

Use of Design Codes is important, but the insistence that this will drastically reduce the level of information required with an application is debateable. There is also potential conflict with the perceived connection (conflict) between the need to reduce the amount of information submitted with application and quicker decisions/more efficiency. The emphasis is on local government to produce, manufacture etc – how will this be resourced? – where does the power come from to insist that SuDS elements are included and how do we ensure they are constructed?

The White Paper talks of incentives for LPAs to determine applications within time. However, the proposed incentive is in fact a penalty on the LPA, which is considered to be counterproductive and rather an incentive for developers to slow the process.

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

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

Supported provided that issues of digital exclusion and the resourcing implications are addressed.

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

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

In the era of the National Planning Policy Framework the evidence base requirements for plans were massively ratcheted up, because planning inspectors became highly risk averse to the ever-present risk of legal challenge. We have seen examples where over half of the overall time for Plan preparation

was taken up in seeking Government approval for the plan from submission of the plan to receipt of the inspector's final report. A move towards a simpler Local Plan preparation process and streamlining is supported in principle, we do have significant concerns that the proposed timetable does not leave sufficient time to bottom out the more complex issues.

It is appreciated that the new proposed Local Plans will be much less document focused, it is unclear how the new proposals can speed up the evidence gathering requirements if plans are going to be properly justified and evidence based. As an example, it may be that substantial highways modelling is required to understand implications for growth on the local and strategic road network. Much of this evidence can only be commissioned and subsequently agreed with key external stakeholders, who are covered by other Government guidance. For example, a WebTag compliant traffic model may not be possible to complete within stages 1-2 to both inform and subsequently justify the plan.

From a wider perspective there are also potential issues in relation to resourcing, both in-house and via external consultancies, which could hinder progress to achieving the set timescale.

Equally, it is also unclear how the proposed process allows proper consultation on options for a spatial strategy. We are concerned that the Government's proposed stages of Local Plan preparation does not seem to align with the intention to re-engage planning with local communities. In particular, it is noted that the first time that communities will be consulted on actual proposals is at stage 3, which is the same stage the plan is submitted to the Secretary of State for Examination. This risks the process being viewed by communities as a *fait accompli*. Equally, stage 3 part (ii) suggests that the public can request changes to the plan, it is also assumed that developers will also have a say at this stage, it is unclear how the Inspector would view these proposed changes. This could ultimately result in a Plan that is different to the one submitted and not really 'Local'.

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

Neighbourhood plans provide an opportunity to describe at a local level the 'fine-grain' detail on what is important, which could prove to be a useful complement to a more broad-brush authority-wide plan. However, the status of neighbourhood plans and their relationship with the proposed zonal approach set out in the White Paper is unclear because of the absence of detail.

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

The new proposals do not appear to give any scope for Neighbourhood Plans to directly determine housing numbers or the designation of land into the three zones. However, there could be a role for Parish Councils or neighbourhood groups to be more heavily involved in developing neighbourhood design codes or guides.

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

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

The Local Government Association estimate that nationally there are over 1 million homes consented which have not been built. There is significant merit in considering the recommendations of the Letwin review, which recognises that any genuinely successful efforts to speed up build out will require direct intervention in land interests to be truly effective.

We support there being a stronger emphasis on building rather than gaining consent and not progressing development, but we are conscious of the need for infrastructure to be provided to support the build out of developments. Infrastructure is often phased, recognising the costs and need for cash-flow. It is not always possible to have infrastructure provided at very early stages of the development. We are also conscious that there can be occasions where it is reasonable that build out slows, as happened with lockdown due to coronavirus.

We also support stronger emphasis on the build out of Minerals and Waste permitted developments, in particular for minerals where operators can sit on permitted sites, affecting the relevant Authority's ability to meet demand.

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

[Not sure or indifferent / Beautiful and/or well-designed / Ugly and/or poorly-designed / There hasn't been any / Other – please specify]

N/A to ADEPT

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

[Less reliance on cars / More green and open spaces / Energy efficiency of new buildings / More trees / Other – please specify]

There is little evidence to suggest that sustainability is at the heart of the White Paper as the focus seems to be on the speed of decisions. The White Paper has missed a once-in-a-generation opportunity to put sustainability and the climate emergency right at the heart of a reformed planning system. We agree that the planning system is central to our most important national challenges including combating climate change, improving biodiversity, and supporting sustainable growth. However, the White Paper does not make proposals to achieve this. Planning must help tackle the climate emergency: the planning system must be designed to help deliver the low carbon, climate resilient places that are needed.

Climate and environmental targets should be integral to the reformed planning system. They must be central to the next round of local plans and to development management decisions under the new system. The national framework must set ambitious and binding standards for achieving zero carbon homes and buildings. Design codes must focus on more than the aesthetics of housing, they must enable place-shaping and provide for the creation of low carbon, climate adapted neighbourhoods with sustainable transport and energy infrastructure, provision for active travel, green infrastructure and improved biodiversity.

On biodiversity, the White Paper proposes to amend the NPPF to target areas where planning can maximise environmental benefits. This is welcome but lacks ambition and detail. The NPPF is currently very vague on protection and enhancement of biodiversity and green infrastructure. We would want to see clear statements about how the planning system will deliver environmental targets and biodiversity net gain (as included in the Environment Bill) and implement the wider improvements set out in local strategies for Nature Recovery and Natural Capital. We need more, better protected and better-connected green spaces.

We support in principle the proposal for a quicker, simpler framework for assessing environmental impacts, but this must be a robust process and based on adequate information to understand the

impact on wildlife and nature. Local authorities must be adequately resourced to deliver biodiversity net gain and other Environment Bill responsibilities. Planning and ecological expertise and capacity in councils has diminished. Note that ADEPT and ALGE have submitted a proposal to Defra for a project to assess ecology competency and capacity.

On flood risk management, the White Paper would fundamentally change the role of LLFAs so that they were not reacting to specific applications. With flood risk increasing due to climate change, a more 'front-loaded' planning system will not ensure that the risk of flooding is adequately or appropriately managed in all developments. LLFAs will not be able to comment on the adequacy of sustainable drainage systems proposed in developments.

On heritage and archaeology, we have some concerns that a rigid zoning/rules-based planning system will not be flexible enough to provide protection for heritage assets in growth and renewal areas. Archaeology is not given sufficient recognition in the heritage section of the White Paper. Under the reformed planning system, it is important that the cost of heritage and archaeological investigation is borne by developers and not transferred to local authorities.

There is nothing on waste and minerals planning in the White Paper.

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

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

To support the related proposals to front load community engagement at the Local Plan stage, and limit the role of elected councillors in what are seen as subsequent technical matters, the White Paper requires Local Planning Authorities to prepare, in consultation with local communities, local design codes which would be binding. This has obvious resource implications but in the absence of local codes, the National Design Guide, National Model Design Code and a revised Manual for Streets – all produced centrally – will prevail.

Currently, it is a significant uphill struggle to force housebuilders to reflect local design preferences, as their business model is so heavily tied to the use of a standard scale-able house type. This problem is reinforced by the five-year supply requirement for housing sites. This requirement still creates significant penalties and risks for local authorities refusing housing applications of mediocre design quality, despite recent government efforts to strengthen design policy. This creates a system which too often delivers anonymous and relatively indistinct estates. A strengthened role for design guides and codes may assist in this but will not achieve meaningful change without proper resourcing of local authorities.

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

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

The proposal for each authority to have a chief officer for design and place-making and a new body to support design coding is supported, however it is important that extra resources are provided by government to ensure local authorities provide such a function.

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

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

Whilst we see merit in Homes England's strategic objectives being modified to give greater weight to delivering beautiful places this must not be at the expense of other key policy objectives – such as achieving policy-compliant levels of affordable housing or securing low carbon outcomes.

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

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

There are significant concerns regarding the deregulatory nature of these proposals, especially concerning the use of permitted development rights and “pattern book” approaches. It is difficult to see how we can set out pre-established principles of what beautiful design looks like as this will often vary depending on the buildings setting. A “fast track for beauty” should rely on the local authority having confidence in the design proposal for a site creating a genuinely sustainable outcome rather than the speed at which an application is determined. The planning system should be efficient, but it should also support due diligence in assessing development proposals which, once approved, will impact on local communities for decades to come.

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

[More affordable housing / More or better infrastructure (such as transport, schools, health provision) / Design of new buildings / More shops and/or employment space / Green space / Don't know / Other – please specify]

N/A to ADEPT

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

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

Whilst the existing Community Infrastructure Levy and Section 106 regimes are flawed, being overly complex, open to gaming by developers who regularly use viability assessments to by-pass evidenced and legitimate planning policy and infrastructure requirements, especially in relation to the provision of much-needed affordable housing, the new proposals contain insufficient detail in relation to a nationally set Infrastructure Levy to be supported. Whilst there are strong theoretical advantages to a consistent land value capture approach arising from the uplift in values brought about by the exercise of public planning policy through the grant of a planning permission, as was originally envisaged by the betterment provisions that were a central part of the 1947 Town and Country Planning Act, the centralised approach advocated is likely to significantly disadvantage lower value areas.

Before the government commits to the abolition of S106 it is vital that it fully considers how a new mechanism aligns with other infrastructure funding streams and provides clarity on the prioritisation of identified infrastructure requirements, including the transfer of funds from the collecting authority to the infrastructure provider where they are not the same.

Furthermore, it is unclear whether infrastructure delivery agents will receive an appropriate proportion of the levy to deliver services and to fulfil statutory functions. Under the current Section 106 mechanism, relevant contributions are received directly by respective delivery bodies which

facilitates forward planning, completion of feasibility work and provides certainty of delivery for the communities where development takes place. In a Levy based approach decisions on spending priorities can be disconnected from the development and provide no certainty to local communities over the infrastructure they may expect/want to see from the development taking place in their locality.

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

[Nationally at a single rate / Nationally at an area-specific rate / Locally]

There are very substantial concerns regarding the implications of a nationally set Infrastructure Levy as set out in Proposal 19, which is likely to lead to an increase in regional disparities as it could deliver much higher levy contributions to high value locations such as London and the South East. The proposed value based minimum threshold may mean that for many parts of the country no Infrastructure Levy revenues will be received at all. In addition, Section 106 Agreements don't just secure contributions to infrastructure, they also coordinate how development is delivered, phased, the precise mixture of uses, and important issues that local people often raise concerning community engagement in the management of open spaces, construction hours and management plans.

If the intention in the White Paper is for Local Planning Authorities to no longer control these issues, then this reinforces concerns about how non-financial issues can be controlled for the benefit of local people in the future. Whilst there are benefits to setting a levy at the time when a development is completed, as opposed to when planning permission is granted, during which many changes to the funding and economic context may have occurred, such an approach is also open to gaming by developers. Decisions about how to spend the levy must be made locally but need to be aligned with the Local Plan Infrastructure Needs Assessment as they are now, and the Infrastructure Delivery Plans upon which the White Paper is silent.

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

[Same amount overall / More value / Less value / Not sure. Please provide supporting statement.]

The Infrastructure Levy should aim to increase infrastructure gains delivered through new development. We support efforts to ensure the levy is charged on all use classes and permitted development. Presently the types of development which typically attract S106 agreements (large scale housing and employment) are not the sole causes of stress on local infrastructure. A revised levy should pick up the cumulative impact of all development.

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

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

One of the failings of the current Community Infrastructure Levy Regulations is that Regulation 60 prevents Council's from borrowing against projected receipts. The proposal in the White Paper to allow councils to borrow against future Infrastructure Levy receipts is therefore to be welcomed in principle, but should provide clarity on matters where infrastructure providers may front load delivery of projects in anticipation of recouping funds from the Council via Levy receipts.

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

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

Given the increased emphasis on permitted development/densification in meeting housing numbers we view this as an essential component of the proposed revisions to the developer contribution system if the government's new approach to meeting housing needs is to be effective.

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

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

The White Paper's proposal to use the Infrastructure Levy to fund affordable housing, as set out in Proposal 21, will create an inevitable false choice between the need for the provision of infrastructure and the need for affordable homes. The White Paper is light on the details so how this would work in practice remains unclear. The costs associated with affordable housing delivery could mean that any in-kind delivery, the value of which is taken off the Infrastructure Levy, could leave little funding for mitigating the infrastructure impacts of development. It is also unclear what powers the LPA would have to require provision on site, to achieve balanced and mixed community objectives, thereby avoiding mono-tenure developments.

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

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

See 24(a)

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

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

See 24(a)

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

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

See 24(a)

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

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

Proposal 22 suggests a much more flexible approach to the use of the Infrastructure Levy, which would break the critical link that currently exists between the S106 and the Community Infrastructure Levy and the provision of infrastructure that mitigates the cumulative impact of development on an area. Such a break would be dangerous, as it will lead to unsustainable and harmful development that does not provide the infrastructure needed to support communities and address climate change.

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

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

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

There is a risk that moving towards a fully digitised local planning system could disadvantage some parts of the community who favour more traditional methods of engagement.