



CABINET

DATE: Friday, 9 October 2020
TIME: 10.30 am
VENUE: Meeting will be held in accordance with provisions of SI 2020/392. Link to the live stream will be found at <https://www.tendringdc.gov.uk/livemeetings>

MEMBERSHIP:

Councillor Stock OBE	- Leader of the Council
Councillor Broderick	- Independent Living Portfolio Holder
Councillor C Guglielmi	- Deputy Leader; Corporate Finance & Governance Portfolio Holder
Councillor P Honeywood	- Housing Portfolio Holder
Councillor McWilliams	- Independent Living Portfolio Holder
Councillor Newton	- Business & Economic Growth Portfolio Holder
Councillor Porter	- Leisure & Tourism Portfolio Holder
Councillor Talbot	- Environment & Public Space Portfolio Holder

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Meeting papers can be provided, on request, in large print, in Braille, or on disc, tape, or in other languages.

For further details and general enquiries about this meeting, contact Ian Ford Email: democraticservices@tendringdc.gov.uk or Telephone on 01255 686584

DATE OF PUBLICATION: THURSDAY, 1 OCTOBER 2020

AGENDA

1 **Apologies for Absence**

The Cabinet is asked to note any apologies for absence received from Members.

2 **Minutes of the Last Meeting (Pages 1 - 18)**

To confirm and sign the minutes of the last meeting of the Cabinet held on Friday 11 September 2020.

3 **Declarations of Interest**

Councillors are invited to declare any Disclosable Pecuniary Interests or Personal Interest, and the nature of it, in relation to any item on the agenda.

4 **Announcements by the Leader of the Council**

The Cabinet is asked to note any announcements made by the Leader of the Council.

5 **Announcements by Cabinet Members**

The Cabinet is asked to note any announcements made by Members of the Cabinet.

6 **Matters Referred to the Cabinet by the Council**

There are none on this occasion.

7 **Matters Referred to the Cabinet by a Committee - Reference from the Planning Policy & Local Plan Committee - A.1 - The Planning White Paper – ‘Planning for the Future’ (Pages 19 - 116)**

To enable Cabinet to consider the recommendations submitted by the Planning Policy & Local Plan Committee in respect of the Government’s White Paper entitled ‘Planning for the Future’ and to formally agree the Council’s response to the Government, for submission by the consultation deadline of 29th October 2020.

8 **Leader of the Council's Items**

There are none on this occasion.

9 **Cabinet Members' Items - Report of the Housing Portfolio Holder - A.2 - Housing Acquisitions & Development Policy (Pages 117 - 138)**

To recommend a Housing Acquisitions & Development Policy for adoption by the Council.

10 **Cabinet Members' Items - Report of the Partnerships Portfolio Holder - A.3 - Determination of a Nomination to Register an Asset of Community Value: The Hanover Inn, 65 Church Street, Harwich (Pages 139 - 154)**

To determine whether The Hanover Inn, Church Street, Harwich meets the criteria set out in the Localism Act 2011 and the Assets of Community Value (England) Regulations 2012 following its nomination as an Asset of Community Value by Tendring CAMRA Branch. No other criteria are pertinent.

11 Cabinet Members' Items - Report of the Partnerships Portfolio Holder - A.4 - Determination of a Nomination to Register an Asset of Community Value: The Anchor Inn, 1 Anchor Lane, Harwich Road, Mistley (Pages 155 - 172)

To determine whether The Anchor Inn, Anchor Lane, Mistley meets the criteria set out in the Localism Act 2011 ("the Act") and the Assets of Community Value (England) Regulations 2012 ("the Regulations") following its nomination as an Asset of Community Value by Mistley Parish Council. No other criteria are pertinent.

12 Management Team Items

There are none on this occasion.

13 Exclusion of Press and Public

The Cabinet is asked to consider passing the following resolution:

"That under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting during consideration of Agenda Item 14 on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 3 of Part 1 of Schedule 12A, as amended, of the Act."

14 Exempt Minute of the Meeting held on Friday 11 September 2020 (Pages 173 - 174)

To confirm as a correct record the exempt minute of the meeting of the Cabinet held on Friday 11 September 2020.

Date of the Next Scheduled Meeting

The next scheduled meeting of the Cabinet is to be held at 10.30 am on Friday, 13 November 2020.

The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

Notice of Intention to Conduct Business in Private

Notice is hereby given that, in accordance with Regulation 5 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, Agenda Item No. 14 is likely to be considered in private for the following reason:

The item detailed below will involve the disclosure of exempt information under Paragraph 3 (Information relating to the financial or business affairs of any particular person (including the authority holding that information)) to Schedule 12A, as amended, to the Local Government Act 1972:

Exempt Minute of the Meeting held on Friday 11 September 2020

**MINUTES OF THE MEETING OF THE CABINET,
HELD ON FRIDAY, 11TH SEPTEMBER, 2020 AT 10.30 AM
MEETING WAS HELD IN ACCORDANCE WITH PROVISIONS OF SI 2020/392. LINK
TO LIVE STREAM IS FOUND HERE:
[HTTPS://WWW.TENDRINGDC.GOV.UK/LIVEMEETINGS](https://www.tendringdc.gov.uk/livemeetings)**

Present: Councillors Neil Stock OBE (Leader of the Council)(Chairman), Joy Broderick (Independent Living Portfolio Holder), Carlo Guglielmi (Deputy Leader of the Council & Corporate Finance and Governance Portfolio Holder), Paul Honeywood (Housing Portfolio Holder), Lynda McWilliams (Partnerships Portfolio Holder), Mary Newton (Business & Economic Growth Portfolio Holder), Alex Porter (Leisure & Tourism Portfolio Holder) and Michael Talbot (Environment & Public Space Portfolio Holder)

Group Leaders Present by Invitation:

Councillors Terry Allen (Leader of the Tendring First Group), Jayne Chapman (Leader of the Independents Group), Ivan Henderson (Leader of the Labour Group), Gary Scott (Leader of the Liberal Democrats Group) and Mark Stephenson (Leader of the Tendring Independents Group)

In Attendance: Damian Williams (Acting Corporate Director (Operations and Delivery)), Lisa Hastings (Assistant Director (Governance) & Monitoring Officer), Richard Barrett (Assistant Director (Finance and IT) & Section 151 Officer), Michael Carran (Assistant Director (Economic Growth and Leisure)), Tim Clarke (Assistant Director (Housing and Environment)), Keith Simmons (Head of Democratic Services and Elections), Ian Ford (Committee Services Manager), William Lodge (Communications Manager), Matt Cattermole (Communications Assistant) and Luke Rosier (IT Officer)

44. APOLOGIES FOR ABSENCE

There were no apologies for absence submitted on this occasion.

45. MINUTES OF THE LAST MEETING

It was **RESOLVED** that the minutes of the meeting of the Cabinet, held on Friday 24 July 2020, be approved as a correct record and signed by the Chairman.

46. DECLARATIONS OF INTEREST

There were no declarations of interest made on this occasion.

47. ANNOUNCEMENTS BY THE LEADER OF THE COUNCIL

Chief Medical Officer's Visit to the District

The Leader of the Council (Councillor Stock OBE) informed Cabinet that he had earlier in the day welcomed Professor Chris Whitty, the Chief Medical Officer for England.

Professor Whitty was visiting the District as part of his investigation into deprivation and poor health outcomes in coastal towns across the nation.

Essex Leaders and Chief Executives Meeting

Councillor Stock informed Cabinet that the Essex Leaders and Chief Executives at their meeting held the previous day had received a presentation from Mike Gogarty, Director of Public Health on the Covid-19 situation in Essex. Councillor Stock was pleased to report that the infection figures for the Tendring District were very low at present though he cautioned that this could quickly change and that it was almost certain that a 'local lockdown' would eventually occur somewhere in Essex.

Councillor Stock further reported that there was no consensus amongst the Essex Local Authorities as to the proposed reform of local government and that there was unlikely to be any such consensus before the publication of the Government's "Devolution and Local Recovery" White Paper later in the Autumn.

PPMA Awards

Councillor Stock read out the following announcement:-

"I'm delighted to share with you that we have won a national HR award.

The PPMA (Public Services People Managers' Association) covers local and central government, as well as a range of other public departments such as the Bank of England and Ombudsmen, and holds annually Excellence in People Management Awards.

This year Tendring District Council was a finalist in three categories: Best Apprenticeship Provider Award, for our brilliant Career Track scheme; Best Employer and Trade Union Partnership, for our relationship with Unison; and Best Mental Health Initiative for work on primary school wellbeing initiatives.

Following a virtual awards ceremony, I can now reveal we were announced as winners of the Best Employer and Trade Union Partnership award. To have won this category is an outstanding achievement as the other finalists were:

*Manchester City Council
Northumberland County Council
Powys Teaching Health Board
South Norfolk / Broadland Council*

Our entry described our relationship with Unison as "two sides of the same coin", looking to achieve 'win-win' situations. We highlighted how our Unison branch provides practical solutions to issues raised, and drafts in other union members to support the executive at times of peak workload, meaning any changes or workplace issues can be quickly resolved.

It is fantastic that we not only got shortlisted in three categories, but also won an award, and this is well-deserved and testament to the good work our HR department does.

The excellent partnership we have with the union demonstrates how well we engage with our staff.

I am particularly proud we were finalists for three different awards, showing that our work in HR can compete across the board; and compared to large organisations such as the Bank of England and the Civil Service

This is an achievement to be immensely proud of.”

48. ANNOUNCEMENTS BY CABINET MEMBERS

There were no announcements made by Cabinet Members on this occasion.

49. MATTERS REFERRED TO THE CABINET BY THE COUNCIL

There were no items referred to the Cabinet by the Council on this occasion.

50. MATTERS REFERRED TO THE CABINET BY A COMMITTEE - REFERENCE FROM THE RESOURCES AND SERVICES OVERVIEW & SCRUTINY COMMITTEE - A.1 - SCRUTINY OF DECISIONS OF THE LEADER OF THE COUNCIL DURING THE PEAK OF THE COVID-19 PANDEMIC IN SO FAR AS THEY RELATE TO THE PANDEMIC AND THE RESPONSE TO IT

Cabinet was aware that, at its meeting held on 22 June 2020 (Minute 61 referred), the Resources and Services Overview and Scrutiny Committee had reviewed the decisions taken by the Leader of the Council during the peak of the COVID-19 pandemic in so far as they related to the pandemic and the Council's response to it.

The following was a list of those decisions:

Discretionary Business Support Scheme
Write-Off of Leisure Centre Membership Fees Income for May 2020
Business Rates Covid-19 Grants Scheme
Council Tax Hardship Scheme
Write-Off of Leisure Facilities Income
Tendring Community Fund - Allocation of £1,000 to Members
CAROS Scheme - Waiver of Rents

Following discussion, it had been agreed by the Resources and Services Overview & Scrutiny Committee that it be recommended and commented to Cabinet that -

- “a) the swift decision to use of part of the Tendring Community Fund to provide for Ward Councillors to nominate organisations to receive grants to enable them to respond to the Covid19 pandemic locally, within an overall limit of £1,000 per Ward Councillor, be recognized as being a success;*
- b) the approval of the publicly announced intention to write-off the Leisure Centre Membership Fees for June etc be regularised; and*
- c) the waiver of rents for those within the CAROS Scheme be extended to the end of August 2020 at least.”*

Cabinet had before it the Leader of the Council's response to the Resources and Services Overview & Scrutiny Committee's recommendations which was as follows:-

"The Leader of the Council welcomes the positivity of the Resources and Services Overview and Scrutiny Committee on their review of the urgent decisions taken during COVID-19 pandemic, which continues with the One Council approach which has been adopted during this time. In particular, the Committee is thanked for their acknowledgement of the success of the £1000 allocation to each Ward Councillor from the Tending Community Fund to support their local areas. A Portfolio Holder Working Party was being established prior to the COVID-19 outbreak to review the scope of the future use of the Tending Community Fund and it is important this work resumes as part of the Council's recovery plans.

It is noted the Resources and Services Overview and Scrutiny Committee met in June however for completeness, it is confirmed that formal decisions were made to approve the write-off of Leisure Centre Membership fees for June and July. In respect of the CAROS Scheme a review can be undertaken as part of the Back to Business Strategy."

Having considered the Resources and Services Overview & Scrutiny Committee's recommendations and the response of the Leader of the Council thereto:

It was moved by Councillor Stock OBE, seconded by Councillor Broderick and –

RESOLVED that the recommendations of the Resources and Services Overview and Scrutiny Committee and the comments of the Leader of the Council, in response thereto, be noted.

51. MATTERS REFERRED TO THE CABINET BY A COMMITTEE - REFERENCE FROM THE RESOURCES AND SERVICES OVERVIEW & SCRUTINY COMMITTEE - A.2 - FINANCIAL PERFORMANCE REPORT: IMPACT OF COVID-19

Cabinet was aware that, at its meeting held on 22 June 2020 (Minute 62 referred), the Resources and Services Overview & Scrutiny Committee had been provided with an early update on the financial impact of COVID 19 on the Council's in-year financial position and looked ahead to 2021/22 as part of the long term forecast.

It had been explained to that Committee that there had been various strands of work that had been undertaken, locally and nationally, along with numerous updates and guidance from the Government since the country had entered a period of 'lock down' from late March 2020.

In providing a high level narrative on the Council's financial position to that Committee, information had been presented across the following headings:

- (1) A summary of the position at the end of April 2020 for significant Income Streams;
- (2) Impact on the Local Council Tax Support Scheme and Council Tax and Business Rate Collection Performance;
- (3) The Direct Financial Impact, including Expenditure and Income, as at the end of April 2020, with Estimates for May and June 2020; and
- (4) Cash Flow Implications.

Following discussion, it had been agreed by the Resources and Services Overview & Scrutiny Committee that it be recommended and commented to Cabinet that -

- (a) *the hard work of Council staff, led by the Chief Executive, community groups, individual Members and individual members of the public locally to support the local communities across Tendring (and particularly those most in need) and sustain businesses with the available grants, be applauded and recognized; including the Council's Finance and IT teams who created the system to pay those much needed grants at a swift pace.*
- (b) *within the allocation of £4,000,000 for cliff stabilisation work, a District wide survey is commissioned this year to identify the implications for the Council of works and thereby assist in the resource considerations of the Council over the long term.*
- (c) *the offer of the Portfolio Holder for Corporate Finance and Governance to include the Chairman of this Committee in an examination of the subject of Council House voids be welcomed.*

Cabinet had before it the Corporate Finance and Governance Portfolio Holder's response to the Resources and Services Overview & Scrutiny Committee's recommendations which was as follows:-

"The Committee's work is appreciated and I welcome their comments, especially those set out in point (a). It is at times like this that the strength of the Council and our local communities really shines through and I am happy to echo and amplify the words of the Committee.

In respect of point (b), a lot of work is undertaken within the framework of the long term forecast in terms of keeping an eye on potential cost pressures that the Council faces, such as cliff stabilisation that the Committee refers to. Such considerations will continue to be an important element of the long term forecast in 2020/21 and beyond. In addition, the Council continues to support the approach of keeping work in-house wherever possible, which has already proved a success with the management of previous cliff stabilisation work that has been completed on time and within budget.

In respect of point (c), I will be requesting the latest update from officers following which I will make the necessary arrangements to review this information with the Chairman of the Committee.

Although 2020/21 will be a very challenging year for various reasons, from a financial perspective the Government have already provided significant funding to the Council along with committing to underwrite the risk of losses in income over the remainder of the year (up to 75% after the first 5%). A further financial update is due to be presented to Cabinet in October which will provide the latest in-year position, which is set against an improved position compared to earlier in the year given this on-going support from the Government. And finally, I will be looking to maximise the flexibility that the long term approach to the forecast was designed to do by exploring the option of relaxing the savings target for 2021/22 given the unprecedented position we face in 2020/21."

Having considered the Resources and Services Overview & Scrutiny Committee's recommendations and the response of the Corporate Finance and Governance Portfolio Holder thereto:

It was moved by Councillor G V Guglielmi, seconded by Councillor Stock OBE and –

RESOLVED that –

- (a) the Resources and Services Overview & Scrutiny Committee be thanked for the work it has undertaken; and
- (b) Cabinet notes the comments raised by that Committee, which will be considered as part of associated activities going forward, together with the response of the Corporate Finance and Governance Portfolio Holder thereto.

52. MATTERS REFERRED TO THE CABINET BY A COMMITTEE - REFERENCE FROM THE RESOURCES AND SERVICES OVERVIEW & SCRUTINY COMMITTEE - A.3 - SCRUTINY OF PROPOSED DECISIONS

Cabinet was aware that, at its meeting held on 22 June 2020 (Minute 63 referred), the Resources and Services Overview and Scrutiny Committee had reviewed any new and / or amended published forthcoming decisions relevant to its terms of reference with a view to deciding whether it wished to enquire into any such decision before it was taken.

The following was a list of those decisions:

NEGC Ltd - Budget & Business Plans Etc;
Corporate Priorities & Projects and New Performance Report 2020/21;
Housing Development and Acquisitions Strategy;
IDOX Corporate Application Support Contract Renewal;
Financial Outturn 2019/20 and Proposed Allocation of the General Fund Variance For The Year; and
Treasury Outturn 2019/20.

Following discussion, it had been agreed by the Resources and Services Overview & Scrutiny Committee that it be recommended to Cabinet -

"That no more funding from this Council should be released to NEGC Ltd until the Budget and Business Plan identified in the forthcoming decisions referred to here has been subject to an enquiry through this Committee."

Cabinet had before it the Leader of the Council's response to the Resources and Services Overview & Scrutiny Committee's recommendation which was as follows:-

"It is noted that the recommendations from Resources and Service Overview and Scrutiny Committee were made in respect of forthcoming decisions, which at the time included the Budget and Business Plan of North Essex Garden Communities Ltd. Events have overtaken this and in July, Cabinet made a decision, acting as Shareholder, that North Essex Garden Communities Ltd ceased trading with effect from 31st August 2020, I can confirm this has taken effect and consequently no further funding will be provided to the Company. There is however still an ambitious work programme in respect of the delivery of Tendring Colchester Borders Garden

Community including the partnership working with Colchester Borough Council and Essex County Council, I can confirm the Cabinet Member whom I wish to appoint to take this forward is Councillor G V Guglielmi, Portfolio Holder for Corporate Finance & Governance.”

Having considered the Resources and Services Overview & Scrutiny Committee's recommendations and the response of the Leader of the Council thereto:

It was moved by Councillor Stock OBE, seconded by Councillor G V Guglielmi and –

RESOLVED that the recommendation of the Resources and Services Overview and Scrutiny Committee and the comments of the Leader of the Council, in response thereto, be noted.

53. MATTERS REFERRED TO THE CABINET BY A COMMITTEE - REFERENCE FROM THE RESOURCES AND SERVICES OVERVIEW & SCRUTINY COMMITTEE - A.4 - OVERVIEW AND SCRUTINY OF HOUSING ISSUES

Cabinet was aware that, at its meeting held on 9 July 2020 (Minute 68 referred), the Resources and Services Overview and Scrutiny Committee had conducted overview and scrutiny on the theme of Housing. The Committee had paid particular emphasis to service delivery and performance in relation to:-

- (i) the Private Sector Housing Financial Assistance Policy;
- (ii) Vacated/Empty Council Housing (“Voids”);
- (iii) Council Housing Tenant Satisfaction and Involvement; and
- (iv) New Build of 10 Council Houses in Jaywick Sands.

Following discussion, it had been agreed by the Resources and Services Overview & Scrutiny Committee that it be recommended to Cabinet that -

- “(a) Cabinet be recommended to develop a public engagement plan in respect of financial assistance for private sector housing that includes providing information to community groups, health professionals and more widely to ensure that all those who would benefit from adaptations that could be funded through the financial assistance available through the Disabled Facilities Grant arrangements are aware of those arrangements and the process to apply for those Grants;*
- (b) the Chief Executive be advised that this Committee considers that it would be advantageous to report on the public engagement plan at the time that it is prepared and ready to be delivered so that Councillors can support the delivery of that plan across the District;*
- (c) consideration be given to including details of grants available for those in private rented accommodation and in receipt of benefits (at the time of notification of benefit award/change/discontinuance) to support the installation of adaptations to the properties they rent to improve their lives (both related to disability facilities, safety and to address energy poverty); and*
- (d) the maintenance contract currently out for tender not be extended beyond the first year or re-tendered until this Committee has had the opportunity to review the*

delivery of that contract and the appropriate balance between in-house and contracted maintenance.”

Cabinet had before it the Housing Portfolio Holder’s response to the Resources and Services Overview & Scrutiny Committee’s recommendations which was as follows:-

“It is clear that the Committee covered a number of housing related topics at this meeting. The discussions highlighted the great work undertaken by our officers in delivering much needed adaptations to our residents and managing and maintaining our own housing stock to a high standard, resulting in high levels of tenant satisfaction that we should be proud of.

I therefore accept the recommendations (a)-(c) as proposed above. In respect of (d) the Maintenance contract is tendered as a seven year contract and as such I propose to carry out a review after one year to ensure that the contract is being run properly and to ensure an appropriate balance between the in-house and contracted maintenance delivery.”

Having considered the Resources and Services Overview & Scrutiny Committee’s recommendations and the response of the Housing Portfolio Holder thereto:

It was moved by Councillor P B Honeywood, seconded by Councillor McWilliams and:

RESOLVED that the Housing Portfolio Holder’s response to the recommendations of the Resources and Services Overview & Scrutiny Committee be both noted and endorsed.

54. MATTERS REFERRED TO THE CABINET BY A COMMITTEE - REFERENCE FROM THE RESOURCES AND SERVICES OVERVIEW & SCRUTINY COMMITTEE - A.5 - FINANCIAL OUTFURN 2019/20 AND ALLOCATION OF GENERAL FUND VARIANCE FOR THE YEAR

Cabinet was aware that, at its meeting held on 13 August 2020 (Minute 73 referred), the Resources and Services Overview & Scrutiny Committee had scrutinised an overview of the Council’s financial outturn for the year 2019/20 and the allocation of the associated General Fund Variance for that year.

The reports considered by the Corporate Finance and Governance Portfolio Holder on 17 July 2020 in respect of the Financial Outturn 2019/20 position and by Cabinet on 24 July 2020 (Minute 40 referred) in respect of the Outturn 2019/20 and proposed allocation of the General Fund variance for the year had been submitted to the Committee to assist it with its scrutiny of those matters.

The Committee was advised that on 17 July 2020 the Corporate Finance and Resources Portfolio Holder had considered the Financial Outturn 2019/20 and had made the following decision:-

“That the Corporate Finance and Governance Portfolio Holder:-

(a) notes the financial outturn position for 2019/20 as set out in this report and appendices;

(b) approves the financing of General Fund capital expenditure for 2019/20 as detailed in Appendix D;

(c) approves the movement in uncommitted and earmarked General Fund reserves for 2019/20 set out in Appendix E;

(d) approves the qualifying carry forwards totalling £17.914m (£9.518m Revenue and £8.396m Capital) as set out in Appendix K;

(e) agrees that all other carry forwards totalling £0.658m requested by services be transferred to the relevant earmarked reserve pending consideration by Cabinet at its July 2020 meeting;

(f) that subject to the above, approves that the overall General Fund Outturn Variance for the year of £0.862m be transferred to the Revenue Commitments reserve until Cabinet formally considers the allocation of this funding at its July 2020 meeting;

(g) in respect of the HRA, approves the movement on HRA balances for 2019/20 including any commitments set out within Appendices H and/or I along with recharges to the HRA from the General fund of £2.808m for the year and the financing of the HRA capital expenditure set out in Appendix I; and

(h) delegation be given to the Council's S151 Officer, in consultation with the Corporate Finance and Governance Portfolio Holder, to adjust the outturn position for 2019/20 along with any corresponding adjustment to earmarked reserves as a direct result of any recommendations made by the Council's External Auditor during the course of their audit activities relating to the Council's 2019/20 accounts."

The Committee was further advised that, on 24 July 2020, the Cabinet had considered the Outturn 2019/20 and the Proposed Allocation of the General Fund Variance for the Year and had made the following decision:-

"That Cabinet:

(a) agrees that the total of £0.658m requested by Services can be retained by them via the associated carry forward requests, as set out in Appendix A to item A.6 of the Report of the Corporate Finance and Governance Portfolio Holder; and

(b) approves the allocation of the General Fund Variance for the year of £0.862m."

Following discussion, it had been agreed by the Resources and Services Overview & Scrutiny Committee that it be recommended to Cabinet that it –

(a) Implements the invitation from the Portfolio Holder for Corporate Finance and Governance to convene a meeting with the Chairman of this Committee, and other interested Councillors, to examine in detail the financial reserves and provisions to look at progressing further and speedier with those schemes or releasing the funds with a view to the outcome of that meeting being reported to the meeting of this Committee to be held on 21 September 2020;

- (b) Notes that this Committee endorses the decision to allocate £862k from the 2019/20 General Fund Outturn variance to 'Back to Business' Initiatives and associated activities; and
- (c) Considers establishing a corporate dedicated project completion resource, with project management skills, with a direction to progress projects and priorities of corporate significance to the Council, support delivery milestones for those projects and unlock capacity and other issues that could frustrate delivery of those projects and priorities.

Cabinet had before it the Corporate Finance and Governance Portfolio Holder's response to the Resources and Services Overview & Scrutiny Committee's recommendations which was as follows:-

"As with earlier reports, the Committee's work is always appreciated and their comments welcomed, especially in supporting the allocation of £862k to the Back to Business Initiative.

In respect of point a), this to a large extent overlaps with point c), and together they will be considered as part of our Back to Business initiative and action plan that is currently being developed where there is a need to translate comments and feedback into practical actions that can delivered on the ground and in a timely manner."

Having considered the Resources and Services Overview & Scrutiny Committee's recommendations and the response of the Corporate Finance and Governance Portfolio Holder thereto:

It was moved by Councillor G V Guglielmi, seconded by Councillor Broderick and –

RESOLVED that –

- (a) the Committee be thanked for the work it has undertaken in reviewing the Financial Outturn for 2019/20 and its ongoing support in its overview and scrutiny of the Council's financial performance, both in-year and future years; and
- (b) the Committee's comments be taken into account as part of developing the Back to Business Action plan, which will include regular and timely updates being presented to the Committee as part of its important overview and scrutiny role in delivering against this key priority for the Council.

55. MATTERS REFERRED TO THE CABINET BY A COMMITTEE - REFERENCE FROM THE RESOURCES AND SERVICES OVERVIEW & SCRUTINY COMMITTEE - A.6 - TENDRING BACK TO BUSINESS PRIORITIES AND PROJECTS 2020/21

Cabinet was aware that, at its meeting held on 13 August 2020 (Minute 74 referred), the Resources and Services Overview & Scrutiny Committee had a scrutinised a report of the Assistant Director (Governance) regarding the development of 'Priorities and Projects' that would be incorporated as part of the Council's Back to Business and Recovery Plan, and the Performance Management framework for the Council for 2020/21 in advance of any decisions to be made by Cabinet/Council on those matters. The report included an Appendix prepared by the Assistant Director (Finance and IT) which drew together the numerous proposals and concepts arising from a survey of

businesses locally, from individual Councillors and from Officers to help the District to build back better following the economic and social impact locally of the lockdown associated with the Covid-19 pandemic.

The Committee had been invited to identify its collective view on the themes and activities that should be key strands of work to focus on helping the District recover and included restarting the local economy, keeping residents and visitors safe and harnessing the power of the voluntary sector to deliver much needed services and improve the quality of life locally.

As a result of its scrutiny the Committee had formulated a proposed draft response to the Cabinet on this matter and had agreed that it would be circulated to the members of the Committee for confirmation. Subsequently, the Chairman of the Committee (Councillor M E Stephenson) had convened a further special meeting of the Committee in order that the Committee could formally endorse its response.

The Committee had subsequently met on 3 September 2020 to review the outputs from the 13 August meeting and ensure that they had been accurately captured. Those points were now before the Cabinet as set out at Appendix A to item A.6 of the Reference Reports from the Resources and Services Overview & Scrutiny Committee.

The Committee had also taken a look at what the Cabinet should be recommended to do next to help achieve a coherent and integrated response to the 'Back to Business' agenda locally. As the 3 September meeting was held after the publication of the Agenda for this Cabinet meeting the Committee's formal response had been circulated as soon as practicable.

It was reported that the decisions concerning the Financial Outturn 2020/21 (referred to in Minute 54 above) and the discussions around 'Back to Business' had suggested to the Committee that a clear and deliverable action plan should be developed by the Cabinet taking in the range of proposals. Those proposals now needed to be assessed and the component parts examined in order to identify the various steps that would be necessary to achieve them. The timing and financing of those proposals needed to be thoroughly worked through in order to avoid wasted energy and public funds. Initially, schemes and services that were already in place or were anyway going to be implemented in this timeframe could be started or refocussed with minimal delay. This would ensure that the Council did not defer intervention whilst the full range of proposals were worked on.

Cabinet was informed that the Committee felt that, as 'back to business' steps were developed they could themselves suggest related or associated steps to be taken. Such associated and related steps might help deliver enhanced benefits and maximise the deliverables that could be achieved through the "back to business" agenda. To help encourage this approach it was felt that it would assist to theme the proposals. Through an agreed themed plan a more coherent approach could be encouraged. In developing the Action Plan, a themed approach was considered for recommendation to the Cabinet. This in itself had identified to the Committee that in many areas proposals would fit into more than one theme and thereby achieve advantage across those overlapping themes.

Cabinet noted that, as the Committee saw it, the 'back to business' agenda was not intended to replace the Corporate Plan and so there was a recognition that particular

activities would be on-going to achieve that Plan and that it was vital that this activity continued. Indeed, the Committee recognised that some of the more long term proposals arising from the 'Back to Business' discussion would fit well with the delivery of the Council's Corporate Plan goals.

Following discussion, it had been agreed by the Resources and Services Overview & Scrutiny Committee that it inform Cabinet that it –

- (a) *confirms its decisions of 13 August 2020 in respect of the outputs from its discussion of 'Back to Business' at Appendix A to this report (and the Outturn 2020/21, as set out in report A5 for this meeting of Cabinet);*
- (b) *recommends that the Cabinet approves the necessary work to assess the various 'Back to Business' proposals, proceeds to implement those schemes and services that can be speedily focussed on 'Back to Business', develops an Action Plan of assessed and costed proposals (based on short, medium and long-term measures) and sets about the delivery of that Action Plan;*
- (c) *further recommends to Cabinet that the themed approach to 'Back to Business' at Appendix B to this reference report be adopted; and*
- (d) *records its intention to monitor the development of the Action Plan referred to in (b) above and its delivery. This will include project management and performance (which itself will include success measures and milestones towards delivery) and to approve that the work programme for this Committee shall be prepared to provide for this.*

Cabinet had before it the Corporate Finance and Governance Portfolio Holder's response to the Resources and Services Overview & Scrutiny Committee's comments and recommendations which was as follows:-

"I would like to thank the RSOS Committee for its work on the back to business priorities and projects. I will certainly be looking at how many of these initiatives we can progress within the funds available. I would be keen to focus on the key business and resident support measures we can put in place given that we are not yet clear about where in the Covid cycle we may be and so it is critical that there is longevity to the initiatives and that any spend is done wisely.

To this end Cabinet will focus on putting together an action and delivery plan to focus on short term actions, drawing from the suggestions from RSOS Committee and the other suggestions submitted by other Councillors."

Having considered the Resources and Services Overview & Scrutiny Committee's recommendations and the response of the Corporate Finance and Governance Portfolio Holder thereto:

It was moved by Councillor G V Guglielmi, seconded by Councillor Newton and –

RESOLVED that the recommendations of the Resources and Services Overview and Scrutiny Committee be taken into account as part of developing the Back to Business Action plan, which will include regular and timely updates being presented to the Committee as part of its important overview and scrutiny role in delivering against this key priority for the Council.

56. **LEADER OF THE COUNCIL'S ITEMS - A.7 - EXECUTIVE DECISIONS TAKEN AS A MATTER OF URGENCY**

The Cabinet gave consideration to a report of the Leader of the Council (A.7) which notified Members of recent urgent Executive Decisions taken by the Leader of the Council on behalf of the Cabinet.

The Cabinet recalled that, as part of the Council's response to the COVID-19 public health emergency the Council's Monitoring Officer had produced a formal "Note on Decision Making Business Continuity Arrangements" which had set out the ways in which the normal operational business of the Council could continue in relation to decisions which would normally be referred to Cabinet, Council or Committees.

In relation to Cabinet decisions the Monitoring Officer's formal Note, as issued on 20 March 2020, had contained the following information and advice:

"The Constitution requires certain matters to be decided by Cabinet collectively. The Leader of the Council may exercise any of the powers delegated to the Cabinet:

a. Following a resolution of the Cabinet (subject to the Constitution), or

b. In cases of urgency, in consultation with the Monitoring Officer and/or Section 151 Officer.

In cases of urgency the decision of the Leader of the Council will be recorded and published in accordance with the Constitution. The Leader of the Council will also be required to make a public statement at the next formal meeting of the Cabinet which will explain why they had taken the decision as a matter of urgency.

Therefore, following consultation with the Leader of the Council, it was recommended that to enable formal decisions to be made on behalf of Cabinet the following procedure should be adopted:

- Reports that would have been considered by Cabinet are emailed to the Group Leaders;*
- a period of five working days would be provided for Group Leaders to email any comments/questions etc. to the relevant Portfolio Holder, Leader and officer(s) identified;*
- responses to comments/questions would be supplied to the Group Leaders;*
- this information will be taken into account by the Leader prior to making his formal decision;*
- a formal decision will be published recording the matters taken into account;*
- at the first formal meeting of Cabinet a report of the decisions taken by the Leader under urgency powers will be produced; and*
- if it was necessary for a key decision to made under urgency provisions this must be reported to Full Council (in accordance with the Access to Information Procedure Rules 15 & 16.2).*

Whilst it was anticipated that decisions taken during urgency provisions would be limited or uncontroversial in nature, with Group Leaders' comments being sought prior to decisions being made, it must be highlighted that the ability of Members to undertake the statutory overview and scrutiny function is not removed."

The Monitoring Officer had considered that, in responding to COVID-19, the Council was in exceptional times which therefore satisfied the grounds of urgency.

It was reported that in making the decision in question the Leader of the Council had exercised his delegated power as set out in the Council's Constitution in Part 3, Schedule 3 (Responsibility for Executive Functions) - Section 3 (General Principles Regarding Decision Making by the Cabinet) – Principle 4b [Part 3.28].

Members were reminded that the decisions taken as a matter of urgency had related to:-

- (1) Approval of a Revised Discretionary Business Grants Scheme (Phase 3) [Published 31 July 2020]

Decision: (a) To agree a revised Discretionary Business Grants Policy (Phase 3); and

(b) To authorise the Chief Executive to implement and administer the scheme and amend the policy in line with any emerging Government guidance.

- (2) Approval of a Revised Discretionary Business Grants Scheme (Phase 4) [Published 24 August 2020]

Decision: (a) To agree a revised Discretionary Business Grants Policy (Phase 4);

(b) To authorise the Chief Executive to implement and administer the scheme and amend the policy in line with any emerging Government guidance; and

(c) To authorise the Portfolio Holder for Housing, in consultation with the Chief Executive, to implement any necessary local discretionary changes required to the scheme to enable applications to be considered from as many businesses in the District as possible.

Having considered the contents of the report:

It was moved by Councillor Stock OBE, moved by Councillor G V Guglielmi and:

RESOLVED that –

- (a) the contents of the report be noted; and
- (b) the urgent decisions taken by the Leader of the Council on behalf of the Cabinet, as detailed in this report, be formally endorsed.

57. CABINET MEMBERS' ITEMS - REPORT OF THE LEISURE AND TOURISM PORTFOLIO HOLDER - A.8 - TOURISM STRATEGY FOR TENDRING

The Cabinet gave consideration to a report of the Leisure & Tourism Portfolio Holder (A.8) which sought its approval for the draft Tendring Tourism Strategy 2021-2026, as set out in the Appendix to the Portfolio Holder's report, to go out for a period of public consultation.

Cabinet was aware that this five year plan would replace the previous tourism strategy for Tendring, which had expired in 2016 and also that Tourism was estimated to be

worth more than £402 million to Tendring, and was responsible for over 8,980 jobs, equivalent to 17.9% of the District's employment. To put matters into perspective, tourism had increased in value to the local economy by £115 million since the previous strategy had been written in 2010.

It was reported that the coronavirus pandemic had impacted significantly on the local tourism industry and that this new strategy was tailored to extend 'back to business' support towards the recovery of the tourism sector.

Members were informed that the draft Strategy set out a 10 point plan for delivery of the following objectives:

1. *Wealth creation*
2. *Job creation*
3. *Quality of life for local people*
4. *Long term growth of the tourism sector*

Cabinet was informed that the new strategy recognised that Tendring had a wide attraction, with its towns and villages all having their own unique features, tourism offer and charm. It was important that the Council worked with partners to develop those unique selling points and promote all of the District's component parts. From beautiful coastlines and visitor attractions, to picturesque countryside and heritage of international significance; the power of Tendring's tourism offer lay in the diversity of its destinations which should be embraced and marketed accordingly.

It was reported that there had been significant private sector investment in the local tourism industry in recent years, including multi million pound investment into some of Tendring's key attractions. This had improved the quality of the District as a visitor destination and demonstrated local confidence and a commitment to raising standards.

Members were aware that the Council had invested in major projects such as the £36m Coastal Defence scheme for Clacton-on-Sea and Holland-on-Sea, creating tangible tourism assets in Harwich for Mayflower 400 and public realm schemes to improve the appearance of the District. Furthermore, the Council had invested resources into both organising and facilitating an expanding quality events programme in recent years. Building on the success of the nationally recognised Clacton Airshow and Harwich Illuminate, event organisers had felt empowered to bring events of national significance such as The Tour of Britain and the first 'on road' Motor Rally in England and Wales, to the Tendring District.

It was considered that the strategy recognised that tourism was a fast moving, agile economy and the Council was one partner in ensuring long term success. As such, this new strategy had greater emphasis on the Council's role of facilitation than its predecessor.

Cabinet was advised that, to date, this new strategy had only been subject to a 'light touch' consultation and that therefore it required a wider process before final consideration and approval by Cabinet. Following that consultation, the strategy together with the first year's delivery plan, which would support achievement of the key objectives would be re-submitted to Cabinet for its final approval.

Having considered the contents of the draft Tourism Strategy 2021-2026 and to enable it to go out for public consultation:-

It was moved by Councillor Porter, seconded by Councillor G V Guglielmi and:-

RESOLVED that –

- (a) the content of the draft Tourism Strategy 2021-2026 be approved; and
- (b) the Corporate Director (Place and Economy) be authorised to commence a consultation period of six weeks to seek the views of partners on the proposed Tourism Strategy.

58. CABINET MEMBERS' ITEMS - JOINT REPORT OF THE CORPORATE FINANCE AND GOVERNANCE PORTFOLIO HOLDER AND THE HOUSING PORTFOLIO HOLDER - A.9 - FREEHOLD SALE OF A RESIDENTIAL PROPERTY

The Cabinet gave consideration to a joint report of the Corporate Finance & Governance Portfolio Holder and the Housing Portfolio Holder (A.9) which sought its approval, in principle, for the freehold sale of a three bedroom residential property in Parkeston which required substantial maintenance work.

It was reported that in April 2020 Officers had obtained the authority to commence the Property Dealing Procedure and list for open market sale a three bedroom residential property in Parkeston. The house had been recently acquired by the Council after purchasing the 25% share from the previous Do It Yourself Shared Ownership owner. The remaining 75% interest in the property had been retained by the Council. The property was not a traditionally built Council house and was the only property the Council owned in a terrace of houses. Due to the nature and age of the house the maintenance and running costs were high and selling the property would avoid the Council having to spend upwards of £25,000 in capital works. The use of the receipts could be added to funds already held from Right to Buy and/or Section 106 receipts and used to bring a more suitable additional dwelling into the Housing Revenue Account that could immediately begin generating a return.

Members were informed that the property had been on the market with a local Estate Agent for a number of weeks and three offers had been received. The highest offer had been provisionally accepted subject to the Cabinet's decision on this matter.

Having considered the proposal to dispose of the property in question:-

It was moved by Councillor G V Guglielmi, seconded by Councillor P B Honeywood and:-

RESOLVED that Cabinet authorises, in principle, the freehold sale of the property subject to its further decision on the terms and conditions of the sale to be taken later on in the meeting following the exclusion of the press and public.

59. MANAGEMENT TEAM ITEMS

There were none on this occasion.

60. EXCLUSION OF PRESS AND PUBLIC

It was moved by Councillor Stock OBE, seconded by Councillor G V Guglielmi and:-

RESOLVED that, under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting during consideration of Agenda Items 18 and 19 on the grounds that they involve the likely disclosure of exempt information as defined in paragraph 3 of Part 1 of Schedule 12A, as amended, of the Act.

61. EXEMPT MINUTE OF THE MEETING HELD ON FRIDAY 24 JULY 2020

It was **RESOLVED** that the exempt minute of the meeting of the Cabinet, held on Friday 24 July 2020, be approved as a correct record and signed by the Chairman.

62. CABINET MEMBERS' ITEMS - JOINT REPORT OF THE CORPORATE FINANCE & GOVERNANCE PORTFOLIO HOLDER AND THE HOUSING PORTFOLIO HOLDER - B.1 - TERMS FOR THE FREEHOLD SALE OF A RESIDENTIAL PROPERTY

RESOLVED that Cabinet –

- (a) approves the terms proposed for the freehold disposal of the property in question to a named individual; and
- (b) authorises the Acting Corporate Director (Operations and Delivery) to enter into a contract to dispose of the property on the agreed terms including on such other terms and conditions as he considers necessary.

The Meeting was declared closed at 11.40 am

Chairman

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CABINET

9 OCTOBER 2020

REFERENCE REPORT FROM PLANNING POLICY & LOCAL PLAN COMMITTEE

A.1 THE PLANNING WHITE PAPER – ‘PLANNING FOR THE FUTURE’ (Report prepared by Gary Guiver)

PURPOSE OF THE REPORT

To enable Cabinet to consider the recommendations submitted by the Planning Policy & Local Plan Committee in respect of the Government’s White Paper entitled ‘Planning for the Future’ and to formally agree the Council’s response to the Government, for submission by the consultation deadline of 29th October 2020.

BACKGROUND

On 30th September 2020, the Planning Policy & Local Plan Committee gave consideration to a comprehensive report (and appendices) of the Corporate Director: Place and Economy which outlined proposals in the Government’s consultation on the White Paper ‘Planning for the Future’ and sought consideration, comment on and agreement on a draft responses for recommendation to Cabinet.

Having considered and discussed the contents of the Corporate Director’s comprehensive report and appendices, the Committee decided to recommend that the agreed draft response be forwarded to Cabinet for its approval as the Council’s response to the questions within the Government’s White Paper.

Members of the Committee did however ask if a small number of additional points could be incorporated into the response, namely around the need to conserve the natural environment and potential risks associated with borrowing against anticipated Infrastructure Levy receipts. The Chairman of the Planning Policy Committee and the Assistant Director for Strategic Planning and Place aim to agree some additions to the wording of the draft response which will be forwarded to the Cabinet for its consideration as early as possible ahead of its meeting.

RECOMMENDATION

That the Cabinet, having considered the recommendations submitted by the Planning Policy and Local Plan Committee and any subsequent suggested additions, agrees the Council's response to the Government's White Paper 'Planning for the Future'.

APPENDICES

Report of the Corporate Director: Place and Economy considered by the Planning Policy & Local Plan Committee on 30th September 2020.

Appendices to that report namely:-

Appendix 1 – Planning White Paper – Planning for the Future

Appendix 2 – Draft Response to the consultation questions within Planning for the Future

BACKGROUND PAPERS

None.

A.1 APPENDIX A

PLANNING POLICY AND LOCAL PLAN COMMITTEE 30 September 2020

REPORT OF THE CORPORATE DIRECTOR: PLANNING AND REGENERATION

A2 –THE PLANNING WHITE PAPER – ‘PLANNING FOR THE FUTURE’

Report prepared by William Fuller & Gary Guiver

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

- a) To draw the attention of Members to the recently published planning White Paper consultation – ‘Planning for the Future’ (see Appendix 1),**
- b) To allow Members to consider and agree the draft response to the consultation set out at Appendix 2 for recommendation to Cabinet.**

EXECUTIVE SUMMARY

Key Points

- On 6 August 2020, the government published a White Paper entitled ‘Planning for the Future’ which sets out proposals aimed at radically reforming the national planning system.
- The paper includes proposals for streamlining the preparation of Local Plans, simplifying the process for making planning decisions, placing greater emphasis on high quality and ‘beautiful design’ and introducing a new ‘Infrastructure Levy’ to fund infrastructure and affordable housing.
- The consultation paper contains 26 questions and responses need to be submitted by 29 October 2020.
- Officers, in liaison with the Chairman of the Planning Policy and Local Plan Committee have drafted responses to the questions and the Committee’s comments and agreement are now sought for recommendation to Cabinet.
- The draft responses aim to support the principle of simplifying and speeding up the planning system but the object to any changes that might a) hand too much power to unelected Planning Inspectors, b) force housing targets on Councils without any opportunity for challenge; c) undermine local democracy; or d) unintentionally bring about more bureaucracy and delay.

The White Paper divides its proposed reforms into three broad themes, or “pillars” and sets out how the changes could be delivered in varying levels of detail. The paper also details a number of alternate options detailed later in this report.

PILLAR ONE: PLANNING FOR DEVELOPMENT A new role for Local Plans

The Government states that Local Plans are too long, complex, take too long to produce and become out of date quickly.

It is proposed to fundamentally refocus Local Plans. No general development management policies would be included (these would be contained in the NPPF), with polices restricted to site or area-specific requirements and development standards to provide certainty about where and how land can be developed, with details of a faster and simplified consenting process also proposed.

At the centre of the new Local Plan system is the local or national allocation of land to three categories (zones) with rules (similar to zoning rules) about how each zone can be developed, covering suitable development uses, height and density limits and identification of sub-areas where different rules apply. Local Plans would simply identify areas for ‘growth’, ‘renewal’ and ‘protection’.

Preparation of new Local Plans aims to overhaul the procedure for preparing the new Local Plans to make the process faster and with greater community engagement. This could include

- Removing the test for ‘soundness’ – This test would be replaced by a single and consolidated statutory “sustainable development” test which would include simpler consideration of environmental impacts;
- Automation and digitisation of policies and written in a machine-readable format;
- Informed by infrastructure – data and evidence on infrastructure need and planning will inform Local Plans with sites only allocated if there is a reasonable prospect of the infrastructure needed coming forward within the plan period;
- Binding housing requirement – housing targets would be determined through a standard method of calculation;
- Incentives to determine applications in statutory time frame – for example with fee refunds and more deemed approvals;
- Digitally enabled and standardised process;
- Shorter and standardised planning applications;
- Statutory timetable for key stages of the Local Plan making process - a 30 month statutory timescale for the production of Local Plans; and
- Neighbourhood Plans retained and particularly encouraged in towns and cities and extension of the concept so that very small areas – such as individual streets – can set their own rules.

Officers' draft response to these proposals support the principal of streamlining the planning system, but object to measures that could undermine local democracy, particular the standard method of calculating housing targets and the role of unelected Planning Inspectors in the planning process.

PILLAR TWO: PLANNING FOR BEAUTIFUL AND SUSTAINABLE PLACES

These proposals look at the Government's desire to '...create beautiful places that will stand the test of time...'

National and local design guides and codes are proposed to 'guide' decisions on the form of development. Local design guides prepared with input from local communities would be brought forward as part of the new Local Plan process, by neighbourhood planning groups or applicants with significant proposals and should consider "empirical evidence of what is popular and characteristic in the local area", and only given weight in planning decisions if this can be shown. A new expert body would help authorities use design guidance and codes and with a "monitoring and challenge role".

A Fast-Track for Beauty Amendments to policy and legislation would allow certain development that comply with local design guides and codes to be fast-tracked through the system.

A new system for environmental considerations is proposed, particularly looking at preventing duplication and delays, improving transparency and opportunities outside of the European Union.

The planning framework for listed buildings and conservation areas is proposed to be reviewed and updated with consideration of changes of use issues, climate change adaptation and new ways of consenting, such as exploring whether suitably experienced architectural specialists can have "earned autonomy from routine listed building consents".

Officers' draft response to these proposals support the principal of improving design quality but highlight the fact that 'beauty' is a subjective matter and that the introduction of design codes, if not done carefully, could stifle innovation in architectural design and might introduce another level of bureaucracy and complication.

PILLAR THREE – PLANNING FOR INFRASTRUCTURE AND CONNECTED PLACES

The existing regimes of CIL and Section 106 planning obligations are proposed to be replaced with a new consolidated 'Infrastructure Levy' to provide 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. It is also proposed that the Infrastructure Levy could be extended to capture changes of use through permitted development rights to ensure better contribution of development permitted this way.

Affordable housing is currently secured via Section 106 planning obligations only, but with planning obligations removed, authorities would use the Infrastructure Levy funds for affordable housing. Local authorities could specify the forms and tenures of on-site affordable housing provision.

There would be increased local authority flexibility to allow them to spend receipts on their policy priorities, once core infrastructure obligations have been met.

Officers' draft response to these proposals support the principal of simplifying the mechanisms for securing developer contributions for infrastructure but highlight concerns that some parts of the country will be able to generate more revenue from a standard levy than others depending on local land and property values, irrespective of the need for, and cost of, infrastructure.

The consultation document (at Appendix A) asks 26 specific questions throughout the White Paper. Officers, in liaison with the Chairman of the Committee, have made detailed comments on each of the questions asked by the Government. The Committee is asked to consider, comment on and agree the responses which will be referred to Cabinet for the final decision on what is submitted to government. The draft responses can be found at Appendix 2.

RECOMMENDATION

That the Planning Policy and Local Plan Committee considers the proposals in the government's consultation on the White Paper 'Planning for the Future' (attached at Appendix 1) and considers, comments on and agrees the draft responses (set out in Appendix 2) for recommendation to Cabinet.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

As the changes proposed in the White Paper could have significant implications for delivering upon many of the Council's priorities, particularly those around housing delivery, infrastructure, economic growth and community engagement.

RESOURCES AND RISK

As the changes proposed in the White Paper could have significant implications for Tending in the future, it is important that the Council ensures its views are put forward by responding to the consultation exercise.

LEGAL

If the government proceeds with the proposed changes to the planning system, there are likely to be subsequent amendments to planning legislation and national policy in due course.

OTHER IMPLICATIONS

Area or Ward affected: All

Consultation/Public Engagement: The public consultation on the planning White Paper runs for 12 weeks beginning on 6th of August 2020, ending at 11.45pm on 29th October 2020.

PART 3 – SUPPORTING INFORMATION

The changes to the planning system set out in the Planning White Paper are wide ranging and delve deep into the established way in which Council's planning departments will operate in the future. The Government often speaks of a fundamental overhaul of the planning system, but what is proposed here truly alters the foundations of the planning system in a profound way.

The key changes are highlighted below, but the White Paper in its entirety can be found at Appendix 1.

Local plans would zone land in two or three categories

The document proposes 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".

The document says that growth areas would include land "suitable for comprehensive development, including new settlements and urban extension sites, and areas for redevelopment, such as former industrial sites or urban regeneration sites". Sites identified in the local plan under this category would have outline approval for development.

Renewal areas would cover "existing built areas where smaller scale development is appropriate" and such land could include "the gentle densification and infill of residential areas, development in town centres, and development in rural areas that is not annotated as Growth or Protected areas, such as small sites within or on the edge of villages". It adds that there would be "a statutory presumption in favour of development being granted for the uses specified as being suitable in each area".

Protected land would include sites which "justify more stringent development controls to ensure sustainability". This would include "areas such as green belt, Areas of Outstanding Natural Beauty (AONBs), conservation areas, local wildlife sites, areas of significant flood risk and important areas of green space".

The document says that new-style local plans would "comprise an interactive web-based map of the administrative area where data and policies are easily searchable, with a key and accompanying text. Areas and sites would be annotated and colour-coded in line with their Growth,

Renewal or Protected designation, with explanatory descriptions set out in the key and accompanying text, as appropriate to the category".

the document also sets out two alternative policy options. Under the first of these, rather than dividing land into three categories, the consultation says the government is "interested in views on more binary models".

"One option is to combine Growth and Renewal areas ... into one category and to extend permission in principle to all land within this area, based on the uses and forms of development specified for each sub-area within it". Another approach would be to limit automatic permission in principle to land identified as a Growth area. It says that "other areas of land would, as now, be identified for different forms of development in ways determined by the local planning authority (and taking into account policy in the National Planning Policy Framework), and subject to the existing development management process".

Local plans should be subject to a single statutory "sustainable development" test, possibly replacing the existing "tests of soundness"

This new test "would consider whether the plan contributes to achieving sustainable development in accordance with policy issued by the secretary of state", the consultation states. It states that a simpler test "should mean fewer requirements for assessments that add disproportionate delay to the plan-making process".

Specifically, it proposes:

- To "abolish the sustainability appraisal system and develop a simplified process for assessing the environmental impact of plans, which would continue to satisfy the requirements of UK and international law and treaties".
- The "duty to cooperate test would be removed". However, it adds that "further consideration will be given to the way in which strategic cross-boundary issues, such as major infrastructure or strategic sites, can be adequately planned for, including the scale at which plans are best prepared in areas with significant strategic challenges".
- A "slimmed down assessment of deliverability for the plan" would be incorporated into the new sustainable development test.

An alternative option states that, rather than removing the existing tests of soundness, an alternative "could be to reform them in order to make it easier for a suitable strategy to be found sound. For example, the tests could become less prescriptive about the need to demonstrate deliverability. Rather than demonstrating deliverability, local authorities could be required to identify a stock of reserve sites which could come forward for development if needed".

A new standard method for establishing housing requirement figures is proposed.

The document says that local plans "will need to identify areas to meet a range of development needs – such as homes, businesses and community facilities – for a minimum period of 10 years". Moreover, the new standard requirement "would differ from the current system of local housing need in that it would be binding, and so drive greater land release". It proposes that the standard

method "would be a means of distributing the national housebuilding target of 300,000 new homes annually".

The model would have regard to:

- The "size of existing urban settlements (so that development is targeted at areas that can absorb the level of housing proposed)".
- The "relative affordability of places (so that the least affordable places where historic under-supply has been most chronic take a greater share of future development)".
- The "extent of land constraints in an area to ensure that the requirement figure takes into account the practical limitations that some areas might face, including the presence of designated areas of environmental and heritage value, the green belt and flood risk".
- The "opportunities to better use existing brownfield land for housing, including through greater densification. The requirement figure will expect these opportunities to have been utilised fully before land constraints are taken into account".
- The "need to make an allowance for land required for other (non-residential) development".
- Inclusion of "an appropriate buffer to ensure enough land is provided to account for the drop-off rate between permissions and completions as well as offering sufficient choice to the market".

The consultation says that, in the current system "the combination of the five-year housing land supply requirement, the Housing Delivery Test and the presumption in favour of sustainable development act as a check to ensure that enough land comes into the system". But it adds that the new proposed approach "should ensure that enough land is planned for, and with sufficient certainty about its availability for development, to avoid a continuing requirement to be able to demonstrate a five-year supply of land". However, the document proposes to maintain the Housing Delivery Test and the presumption in favour of sustainable development as part of the new system. The government has published a separate consultation on the proposed changes to the standard method for assessing local housing need.

Development management policies could be set out at national scale, and restricted in local plans

Elsewhere, the document says that development management policies should be established "at national scale" and restricted in local plans. It says that, under this proposal, the National Planning Policy Framework (NPPF) "would become the primary source of policies for development management; there would be no provision for the inclusion of generic development management policies which simply repeat national policy within local plans, such as protections for listed buildings..." It also says the government is instead proposing to turn plans "from long lists of general 'policies' to specific development standards" drawn up by councils and local communities.

An alternative option included in the consultation says that, rather than removing the ability for local authorities to include general development management policies in local plans, "we could limit the scope of such policies to specific matters and standardise the way they are written, where exceptional circumstances necessitate a locally-defined approach".

Another alternative would be to "allow local authorities a similar level of flexibility to set development management policies as under the current local plans system, with the exception that policies which duplicate the National Planning Policy Framework would not be allowed".

Local plans to be published as "standardised data"

The consultation also says that local plans should be published "as standardised data to enable a strategic national map of planning to be created". It adds that the new-style digital local plan would "help local planning authorities to engage with strategic cross-boundary issues and use data-driven insights to assess local infrastructure needs to help decide what infrastructure is needed and where it should be located".

Building Beautiful

Following the call by the Building Better, Building Beautiful Commission earlier this year for a "fast-track for beauty", the government proposes updating the National Planning Policy Framework so that schemes which comply with local design guides and codes "have a positive advantage and greater certainty about their prospects of swift approval".

It also proposes that site-specific design codes and masterplans within designated "Growth" zones, prepared either by the local planning authority or the site promoter, are first agreed "as a condition of the permission in principle".

Meanwhile, extending permitted development should enable "popular and replicable forms of development to be approved easily and quickly, helping to support 'gentle intensification' of our towns and cities", the document says. It adds that "pattern books", setting out standard design forms, "have helped to deliver some of our most popular and successful places, and in a way which makes it relatively easy for smaller development companies to enter the market", and says it plans to revive this tradition in designated "Renewal" areas, "by allowing the pre-approval of popular and replicable designs through permitted development".

The government also plans to develop "a limited set of form-based development types that allow the redevelopment of existing residential buildings", so "enabling increased densities while maintaining visual harmony". This would apply to its recently announced extensions of permitted development to include upwards extensions and demolition-plus-rebuilding which would have to take local or national design codes into account in order to gain prior approval.

And on so-called green infrastructure, the government proposes, via changes to the NPPF, to make all new streets tree-lined. "We are also assessing the extent to which our planning policies and processes for managing flood risk may need to be strengthened," it adds.

Environmental Impacts and Listed Buildings

It says the current process for assessing the environmental impact of developments "can lead to duplication of effort and overly-long reports which inhibit transparency and add unnecessary delays", and proposes measures to streamline this.

The white paper also proposes to review and update the planning framework for listed buildings and conservation areas, “to ensure their significance is conserved while allowing, where appropriate, sympathetic changes to support their continued use and address climate change”.

On energy sustainability, the government wants new homes to produce 75-80 per cent lower CO² emissions compared to current levels, and to be capable of eventually becoming “fully zero-carbon homes” without further retrofitting. A government response to its Future Homes Standard consultation is due shortly, but the response to the current consultation “will look to clarify the role that [local planning authorities] can play in setting energy efficiency standards for new build developments”, the white paper says.

Summarised, the key proposals are:

- For design guidance and codes, prepared locally with community involvement, to then be “more binding on decisions about development”;
- To move to a planning system based on such codes, which is then “more visual and rooted in local preferences and character”, with each authority having a “chief officer for design and place-making”.
- To strengthen non-departmental public body Homes England, so it can “give greater emphasis to delivering beautiful places”;
- To “fast-track for beauty” by “incentivising and accelerating high quality development which reflects local character and preferences”;
- To design a “quicker, simpler” framework for assessing environmental impacts and enhancement opportunities;
- To make “ambitious” improvements in energy efficiency standards for buildings to help deliver net-zero by 2050.

APPENDICES

Appendix 1 – Planning White Paper – Planning for the Future

Appendix 2 –Draft Response to the consultation questions within Planning for the Future

BACKGROUND PAPERS

None

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Ministry of Housing,
Communities &
Local Government

White Paper: Planning for the Future



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August 2020

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Scope of the consultation

Topic of this consultation:	This consultation seeks any views on each part of a package of proposals for reform of the planning system in England to streamline and modernise the planning process, improve outcomes on design and sustainability, reform developer contributions and ensure more land is available for development where it is needed.
Scope of this consultation:	This consultation covers a package of proposals for reform of the planning system in England, covering plan-making, development management, development contributions, and other related policy proposals. Views are sought for specific proposals and the wider package of reforms presented.
Geographical scope:	These proposals relate to England only.
Impact Assessment:	The Government is mindful of its responsibility to have regard to the potential impact of any proposal on the Public Sector Equality Duty. In each part of the consultation we would invite any views on the duty. We are also seeking views on the potential impact of the package as a whole on the Public Sector Equality Duty.

Basic Information

To:	This consultation is open to everyone. We are keen to hear from a wide range of interested parties from across the public and private sectors, as well as from the general public.
Body/bodies responsible for the consultation:	Ministry of Housing, Communities and Local Government
Duration:	This consultation will last for 12 weeks from 6 August 2020.
Enquiries:	For any enquiries about the consultation please contact planningforthefuture@communities.gov.uk .
How to respond:	You may respond by going to our website https://www.gov.uk/government/consultations/planning-for-the-future Alternatively you can email your response to the questions in this consultation to planningforthefuture@communities.gov.uk . If you are responding in writing, please make it clear which questions you are responding to. Written responses should be sent to:

APPENDIX 1

	<p>Planning for the Future Consultation, Planning Directorate, 3rd Floor, Fry Building, 2 Marsham Street, London, SW1P 4DF</p>
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When you reply it would be very useful if you confirm whether you are replying as an individual or submitting an official response on behalf of an organisation and include:

- your name,
- your position (if applicable), and
- the name of organisation (if applicable).

Foreword from the Prime Minister

I never cease to be amazed by the incredible potential of this country. The vast array of innovations and talent that, when combined with our extraordinary can-do spirit, has brought forth everything from the jet engine to gene editing therapy.

But as we approach the second decade of the 21st century that potential is being artificially constrained by a relic from the middle of the 20th – our outdated and ineffective planning system.

Designed and built in 1947 it has, like any building of that age, been patched up here and there over the decades.

Extensions have been added on, knocked down and rebuilt according to the whims of whoever's name is on the deeds at the time. Eight years ago a new landlord stripped most of the asbestos from the roof.

But make-do-and-mend can only last for so long and, in 2020, it is no longer fit for human habitation.

Thanks to our planning system, we have nowhere near enough homes in the right places. People cannot afford to move to where their talents can be matched with opportunity. Businesses cannot afford to grow and create jobs. The whole thing is beginning to crumble and the time has come to do what too many have for too long lacked the courage to do – tear it down and start again.

That is what this paper proposes.

Radical reform unlike anything we have seen since the Second World War.

Not more fiddling around the edges, not simply painting over the damp patches, but levelling the foundations and building, from the ground up, a whole new planning system for England.

One that is simpler, clearer and quicker to navigate, delivering results in weeks and months rather than years and decades.

That actively encourages sustainable, beautiful, safe and useful development rather than obstructing it.

That makes it harder for developers to dodge their obligations to improve infrastructure and opens up housebuilding to more than just the current handful of massive corporations.

That gives you a greater say over what gets built in your community.

That makes sure start-ups have a place to put down roots and that businesses great and small have the space they need to grow and create jobs.

And, above all, that gives the people of this country the homes we need in the places we want to live at prices we can afford, so that all of us are free to live where we can connect our talents with opportunity.

Getting homes built is always a controversial business. Any planning application, however modest, almost inevitably attracts objections and I am sure there will be those who say this paper represents too much change too fast, too much of a break from what has gone before.

But what we have now simply does not work.

So let's do better. Let's make the system work for all of us. And let's take big, bold steps so that we in this country can finally build the homes we all need and the future we all want to see.

**The Rt. Hon. Boris Johnson MP
Prime Minister**

Foreword from the Secretary of State

The outbreak of COVID-19 has affected the economic and social lives of the entire nation. With so many people spending more time at home than ever before, we have come to know our homes, gardens and local parks more intimately. For some this has been a welcome opportunity to spend more time in the place they call home with the people they love. For others – those in small, substandard homes, those unable to walk to distant shops or parks, those struggling to pay their rent, or indeed for those who do not have a home of their own at all – this has been a moment where longstanding issues in our development and planning system have come to the fore.

Such times require decisive action and a plan for a better future. These proposals will help us to build the homes our country needs, bridge the present generational divide and recreate an ownership society in which more people have the security and dignity of a home of their own.

Our proposals seek a significantly simpler, faster and more predictable system. They aim to facilitate a more diverse and competitive housing industry, in which smaller builders can thrive alongside the big players, where all pay a fair share of the costs of infrastructure and the affordable housing existing communities require and where permissions are more swiftly turned into homes.

We are cutting red tape, but not standards. This Government doesn't want to just build houses. We want a society that has re-established powerful links between identity and place, between our unmatched architectural heritage and the future, between community and purpose. Our reformed system places a higher regard on quality, design and local vernacular than ever before, and draws inspiration from the idea of design codes and pattern books that built Bath, Belgravia and Bournville. Our guiding principle will be as Clough Williams-Ellis said to cherish the past, adorn the present and build for the future.

We will build environmentally friendly homes that will not need to be expensively retrofitted in the future, homes with green spaces and new parks at close hand, where tree lined streets are the norm and where neighbours are not strangers.

We are moving away from notices on lampposts to an interactive and accessible map-based online system – placing planning at the fingertips of people. The planning process will be brought into the 21st century. Communities will be reconnected to a planning process that is supposed to serve them, with residents more engaged over what happens in their areas.

While the current system excludes residents who don't have the time to contribute to the lengthy and complex planning process, local democracy and accountability will now be enhanced by technology and transparency.

Reforming the planning system isn't a task we undertake lightly, but it is both an overdue and a timely reform. Millions of jobs depend on the construction sector and in every economic recovery, it has played a crucial role.

This paper sets out how we will reform the planning system to realise that vision and make it more efficient, effective and equitable. I am most grateful to the taskforce of experts who have generously offered their time and expert advice as we have developed our proposals for reform – Bridget Rosewell, Miles Gibson, Sir Stuart Lipton, Nicholas Boys Smith, and Christopher Katkowski QC.

The Rt. Hon. Robert Jenrick MP
Secretary of State for Housing, Communities and Local Government

Introduction

The challenge we face – an inefficient, opaque process and poor outcomes

- 1.1. The planning system is central to our most important national challenges: tackling head on the shortage of beautiful, high quality homes and places where people want to live and work; combating climate change; improving biodiversity; supporting sustainable growth in all parts of the country and rebalancing our economy; delivering opportunities for the construction sector, upon which millions of livelihoods depend; the ability of more people to own assets and have a stake in our society; and our capacity to house the homeless and provide security and dignity.¹
- 1.2. To succeed in meeting these challenges, as we must, the planning system needs to be fit for purpose. It must make land available in the right places and for the right form of development. In doing this, it must ensure new development brings with it the schools, hospitals, surgeries and transport local communities need, while at the same time protecting our unmatched architectural heritage and natural environment.
- 1.3. There is some brilliant planning and development. And there are many brilliant planners and developers. But too often excellence in planning is the exception rather than the rule, as it is hindered by several problems with the system as it stands:
 - **It is too complex:** The planning system we have today was shaped by the Town and Country Planning Act 1947, which established planning as nationalised and discretionary in character. Since then, decades of reform have built complexity, uncertainty and delay into the system. It now works best for large investors and companies, and worst for those without the resources to manage a process beset by risk and uncertainty. A simpler framework would better support a more competitive market with a greater diversity of developers, and more resilient places.
 - **Planning decisions are discretionary rather than rules-based:** Nearly all decisions to grant consent are undertaken on a case-by-case basis, rather than determined by clear rules for what can and cannot be done. This makes the English planning system, and those derived from it, an exception internationally, and it has the important consequences of increasing planning risk, pushing up the cost of capital for development and discouraging both innovation and the bringing forward of land for development.² Decisions are also often overturned – of the planning applications determined at appeal, 36 per cent of decisions relating to major

¹ The shortage of affordable homes in and close to the most productive urban centres is a major drag on national productivity – see PwC (2019) “UK Housing market outlook”, available at <https://www.pwc.co.uk/economic-services/ukeyo/ukeyo-housing-market-july-2019.pdf>.

² *The EU Compendium of Spatial Planning Systems and Policies*, European Commission (1997); OECD (2017), *Land-use Planning Systems in the OECD: Country Fact Sheets*; Monk, S., Whitehead, C., Burgess, G. & Tang, C. (2013) *International review of land supply and planning systems*, Joseph Rowntree Foundation.

applications and 30 per cent of decisions relating to minor applications are overturned.³

- **It takes too long to adopt a Local Plan:** although it is a statutory obligation to have an up to date Local Plan in place, only 50 per cent of local authorities (as of June 2020) do, and Local Plan preparation takes an average of 7 years (meaning many policies are effectively out of date as soon as they are adopted).
- **Assessments of housing need, viability and environmental impacts are too complex and opaque:** Land supply decisions are based on projections of household and business ‘need’ typically over 15- or 20-year periods. These figures are highly contested and do not provide a clear basis for the scale of development to be planned for. Assessments of environmental impacts and viability add complexity and bureaucracy but do not necessarily lead to environmental improvements nor ensure sites are brought forward and delivered;
- **It has lost public trust** with, for example, a recent poll finding that only seven per cent trusted their local council to make decisions about large scale development that will be good for their local area (49 per cent and 36 per cent said they distrusted developers and local authorities respectively).⁴ And consultation is dominated by the few willing and able to navigate the process – the voice of those who stand to gain from development is not heard loudly enough, such as young people. The importance of local participation in planning is now the focus of a campaign by the Local Government Association but this involvement must be accessible to all people;⁵
- **It is based on 20th-century technology:** Planning systems are reliant on legacy software that burden the sector with repetitive tasks. The planning process remains reliant on documents, not data, which reduces the speed and quality of decision-making. The user experience of the planning system discourages engagement, and little use is made of interactive digital services and tools. We have heard that for many developers the worst thing that can happen is for the lead local authority official to leave their job – suggesting a system too dependent on the views of a particular official at a particular time, and not transparent and accessible requirements shaped by communities.
- **The process for negotiating developer contributions to affordable housing and infrastructure is complex, protracted and unclear:** as a result, the outcomes can be uncertain, which further diminishes trust in the system and reduces the ability of local planning authorities to plan for and deliver necessary infrastructure. Over 80 per cent of planning authorities agree that planning

³ MHCLG data, period covering 24 months to end March 2019.

⁴ YouGov polling commissioned by Grosvenor (2019) – available at <https://www.grosvenor.com/Grosvenor/files/a2/a222517e-e270-4a5c-ab9f-7a7b4d99b1f3.pdf>. An overview of wider evidence and studies on public attitudes to planning and development is available in chapter 9 of the Building Better Building Beautiful Commission’s interim report – available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/815495/BBB_Commission_Interim_Report_Appendices.pdf.

⁵ See the LGA’s open statement on planning at <https://www.local.gov.uk/keep-planning-local>.

obligations cause delay.⁶ It also further increases planning risk for developers and landowners, thus discouraging development and new entrants.

- **There is not enough focus on design, and little incentive for high quality new homes and places:** There is insufficient incentive within the process to bring forward proposals that are beautiful and which will enhance the environment, health, and character of local areas. Local Plans do not provide enough certainty around the approved forms of development, relying on vague and verbal statements of policy rather than the popularly endorsed visual clarity that can be provided by binding design codes. This means that quality can be negotiated away too readily and the lived experience of the consumer ignored too readily.
- **It simply does not lead to enough homes being built,** especially in those places where the need for new homes is the highest. Adopted Local Plans, where they are in place, provide for 187,000 homes per year across England – not just significantly below our ambition for 300,000 new homes annually, but also lower than the number of homes delivered last year (over 241,000).⁷ The result of long-term and persisting undersupply is that housing is becoming increasingly expensive, including relative to our European neighbours. In Italy, Germany and the Netherlands, you can get twice as much housing space for your money compared to the UK.⁸ We need to address the inequalities this has entrenched.

- 1.4. A poor planning process results in poor outcomes. Land use planning and development control are forms of regulation, and like any regulation should be predictable, and accessible and strike a fair balance between consumers, producers and wider society. But too often the planning system is unpredictable, too difficult to engage with or understand, and favours the biggest players in the market who are best able to negotiate and navigate through the process.
- 1.5. The Government has made significant progress in recent years in increasing house building, with construction rates at a 30-year high in 2019. But these fundamental issues in the system remain, and we are still lagging behind many of our European neighbours. And as the Building Better, Building Beautiful Commission found in its interim report last year, too often what we do build is low quality and considered ugly by local residents.⁹

A new vision for England's planning system

- 1.6. This paper and the reforms that follow are an attempt to rediscover the original mission and purpose of those who sought to improve our homes and streets in late

⁶ MHCLG (2019) *The Value and Incidence of Developer Contributions in England 2018/19* available at: <https://gov.uk/government/publications/section-106-planning-obligations-and-the-community-infrastructure-levy-in-england-2018-to-2019-report-of-study>

⁷ MHCLG data on housing supply available at <https://www.gov.uk/government/statistics/housing-supply-net-additional-dwellings-england-2018-to-2019>.

⁸ Data from the Deloitte Property Index, available at https://www2.deloitte.com/content/dam/Deloitte/cz/Documents/survey/Property_Index_2016_EN.pdf

⁹ Building Better Building Beautiful Commission (2019) *Creating space for beauty: Interim report*. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/815493/BBBC_Commission_Interim_Report.pdf

Victorian and early 20th century Britain. That original vision has been buried under layers of legislation and case law. We need to rediscover it.

- 1.7. Planning matters. Where we live has a measurable effect on our physical and mental health: on how much we walk, on how many neighbours we know or how tense we feel on the daily journey to work or school. Places affect us from the air that we breathe to our ultimate sense of purpose and wellbeing. This is a question of social justice too. Better off people experience more beauty than poorer people and can better afford the rising costs of homes. As a nation we need to do this better. Evidence from the Town and Country Planning Association (TCPA), the Royal Town Planning Institute (RTPI) and the Green Building Council to the Building Better Building Beautiful Commission all emphasised that the evidence on what people want and where they flourish is remarkably consistent.
- 1.8. The Government's planning reforms since 2010 have started to address the underlying issues:
 - last year, we delivered over 241,000 homes, more new homes than at any point in the last 30 years;
 - our reforms to change of use rules have supported delivery of over 50,000 new homes;
 - the rate of planning applications granted has increased since 2010;¹⁰
 - the National Planning Policy Framework, introduced in 2012, has greatly simplified the previously huge volume of policy;
 - we have introduced a simplified formula for assessing housing need and clearer incentives for local authorities to have up to date plans in place;
 - we have introduced greater democratic accountability over infrastructure planning, giving elected Ministers responsibility for planning decisions about this country's nationally significant energy, transport, water, wastewater and waste projects;
 - we have continued to protect the Green Belt;
 - protections for environmental and heritage assets – such as Areas of Outstanding Natural Beauty (AONBs), and Sites of Special Scientific Interest (SSSIs) and Conservation Areas – continue to protect our treasured countryside and historic places; and
 - we have democratised and localised the planning process by abolishing the top-down regional strategies and unelected regional planning bodies, and empowered communities to prepare a plan for their area, through our introduction of neighbourhood planning – with over 2,600 communities taking advantage of our reforms so far.
- 1.9. But the simple truth is that decades of complexity and political argument have resulted in a system which is providing neither sufficient homes nor good enough

¹⁰ See

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/875032/Planning_Application_Statistics_October_to_December_2019.pdf (p.3).

new places. Nor is it fairly using the talents and passions of public sector planners who often feel over-worked and under-appreciated, trapped between the urgent need for more homes, an insufficiently competitive market and a policy framework which makes it almost impossible for them to insist upon beautiful and sustainable new homes and places.

- 1.10. The planning system needs to be better at unlocking growth and opportunity in all parts of the country, at encouraging beautiful new places, at supporting the careful stewardship and rebirth of town and city centres, and at supporting the revitalisation of existing buildings as well as supporting new development.
- 1.11. It is also time for the planning system finally to move towards a modernised, open data approach that creates a reliable national picture of what is happening where in planning, makes planning services more efficient, inclusive and consistent, and unlocks the data needed by property developers and the emerging Property Technology (PropTech) sector, to help them make more informed decisions on what to build and where.
- 1.12. We wish to:
 - **be more ambitious for the places we create**, expecting new development to be beautiful and to create a ‘net gain’ not just ‘no net harm’;
 - **move the democracy forward** in the planning process and give neighbourhoods and communities an earlier and more meaningful voice in the future of their area as plans are made, harnessing digital technology to make it much easier to access and understand information about specific planning proposals. More engagement should take place at the Local Plan phase;
 - **improve the user experience of the planning system**, to make planning information easier to find and understand and make it appear in the places that discussions are happening, for example in digital neighbourhood groups and social networks. New digital engagement processes will make it radically easier to raise views about and visualise emerging proposals whilst on-the-go on a smart phone;
 - **support home ownership**, helping people and families own their own beautiful, affordable, green and safe homes, with ready access to better infrastructure and green spaces;
 - **increase the supply of land available for new homes where it is needed** to address affordability pressures, support economic growth and the renewal of our towns and cities, and foster a more competitive housing market;
 - **help businesses to expand** with readier access to the commercial space they need in the places they want and supporting a more physically flexible labour market;
 - **support innovative developers and housebuilders**, including small and medium-sized enterprises (SMEs) and self-builders, those looking to build a diverse range of types and tenure of housing, and those using innovative modern methods of construction (MMC);
 - **promote the stewardship and improvement of our precious countryside and environment**, ensuring important natural assets are preserved, the development

potential of brownfield land is maximised, that we support net gains for biodiversity and the wider environment and actively address the challenges of climate change; and

- **create a virtuous circle of prosperity in our villages, towns and cities**, supporting their ongoing renewal and regeneration without losing their human scale, inheritance and sense of place. We need to build more homes at gentle densities in and around town centres and high streets, on brownfield land and near existing infrastructure so that families can meet their aspirations. Good growth will make it easier to level up the economic and social opportunities available to communities.
- 1.13. Underpinning this, we need to modernise the day-to-day operation of the planning system. Residents should not have to rely on planning notices attached to lamp posts, printed in newspapers or posted in libraries. The COVID-19 pandemic has highlighted the need for modern digital planning services that can be accessed from home, and many planners and local authorities have responded brilliantly to this challenge. The planning system must build on this success and follow other sectors in harnessing the benefits which digitisation can bring – real time information, high quality virtual simulation, straightforward end-to-end processes. It should be based on data, not documents, inclusive for all members of society, and stimulate the innovation of the great British design industry.
- 1.14. There are growing calls for change, and for the shape that it should take – based on a bold vision for end-to-end reform, rather than further piecemeal change within the existing system. Recent reports from think tanks and the Government-appointed Building Better, Building Beautiful Commission are the latest prominent voices to have added to the chorus.¹¹

Proposals

- 1.15. We will undertake fundamental reform of the planning system to address its underlying weaknesses and create a system fit for the 21st century. We want to hear your views on our proposals:
- 1.16. **First, we will streamline the planning process with more democracy taking place more effectively at the plan making stage**, and will replace the entire corpus of plan-making law in England to achieve this:
- **Simplifying the role of Local Plans**, to focus on identifying land under three categories - *Growth* areas suitable for substantial development, and where outline approval for development would be automatically secured for forms and types of development specified in the Plan; *Renewal* areas suitable for some development, such as gentle densification; and *Protected* areas where – as the name suggests – development is restricted. This could halve the time it takes to secure planning

¹¹ See Policy Exchange (2020) “A planning system for the 20th century”, available at: <https://policyexchange.org.uk/publication/rethinking-the-planning-system-for-the-21st-century/>; Centre for Cities (2020) “Planning for the future”, available at: <https://www.centreforcities.org/publication/planning-for-the-future/>; Building Better Building Beautiful Commission (2020) “Living with beauty: promoting health, well-being and sustainable growth”, available at: <https://www.gov.uk/government/publications/living-with-beauty-report-of-the-building-better-building-beautiful-commission>; Create Streets (2018) “From NIMBY to YIMBY”, and (2018) “More Good Homes”.

permission on larger sites identified in plans. We also want to allow local planning authorities to identify sub-areas in their *Growth* areas for self and custom-build homes, so that more people can build their own homes.

- **Local Plans should set clear rules rather than general policies for development.** We will set out general development management policies nationally, with a more focused role for Local Plans in identifying site and area-specific requirements, alongside locally-produced design codes. This would scale back the detail and duplication contained in Local Plans, while encouraging a much greater focus on design quality at the local level. Plans will be significantly shorter in length (we expect a reduction in size of at least two thirds), as they will no longer contain a long list of “policies” of varying specificity – just a core set of standards and requirements for development.
- **Local councils should radically and profoundly re-invent the ambition, depth and breadth with which they engage with communities** as they consult on Local Plans. Our reforms will democratise the planning process by putting a new emphasis on engagement at the plan-making stage. At the same time, we will streamline the opportunity for consultation at the planning application stage, because this adds delay to the process and allows a small minority of voices, some from the local area and often some not, to shape outcomes. We want to hear the views of a wide range of people and groups through this consultation on our proposed reforms.
- **Local Plans should be subject to a single statutory “sustainable development” test**, and unnecessary assessments and requirements that cause delay and challenge in the current system should be abolished. This would mean replacing the existing tests of soundness, updating requirements for assessments (including on the environment and viability) and abolishing the Duty to Cooperate.
- **Local Plans should be visual and map-based, standardised, based on the latest digital technology, and supported by a new standard template.** Plans should be significantly shorter in length, and limited to no more than setting out site- or area-specific parameters and opportunities.
- **Local authorities and the Planning Inspectorate will be required through legislation to meet a statutory timetable (of no more than 30 months in total)** for key stages of the process, and there will be sanctions for those who fail to do so.
- **Decision-making should be faster and more certain**, within firm deadlines, and should make greater use of data and digital technology.
- **We will seek to strengthen enforcement powers and sanctions** so that as we move towards a rules-based system, communities can have confidence those rules will be upheld.
- **We will develop a comprehensive resources and skills strategy for the planning sector to support the implementation of our reforms** – so that, as we bring in our reforms, local planning authorities are equipped to create great communities through world-class civic engagement and proactive plan-making.

- 1.17. **Second, we will take a radical, digital-first approach to modernise the planning process. This means moving from a process based on documents to a process driven by data.** We will:
- **Support local planning authorities to use digital tools to support a new civic engagement process for local plans and decision-making**, making it easier for people to understand what is being proposed and its likely impact on them through visualisations and other digital approaches. We will make it much easier for people to feed in their views into the system through social networks and via their phones.
 - **Insist local plans are built on standardised, digitally consumable rules and data**, enabling accessible interactive maps that show what can be built where. The data will be accessed by software used across the public sector and also by external PropTech entrepreneurs to improve transparency, decision-making and productivity in the sector.
 - **Standardise, and make openly and digitally accessible, other critical datasets that the planning system relies on**, including planning decisions and developer contributions. Approaches for fixing the underlying data are already being tested and developed by innovative local planning authorities and we are exploring options for how these could be scaled nationally.
 - **Work with tech companies and local authorities to modernise the software used for making and case-managing a planning application**, improving the user-experience for those applying and reducing the errors and costs currently experienced by planning authorities. A new more modular software landscape will encourage digital innovation and will consume and provide access to underlying data. This will help automate routine processes, such as knowing whether new applications are within the rules, making decision making faster and more certain.
 - **Engage with the UK PropTech sector through a *PropTech Innovation Council*** to make the most of innovative new approaches to meet public policy objectives, help this emerging sector to boost productivity in the wider planning and housing sectors, and ensure government data and decisions support the sector's growth in the UK and internationally.
- 1.18. **Third, to bring a new focus on design and sustainability**, we will:
- **Ensure the planning system supports our efforts to combat climate change and maximises environmental benefits**, by ensuring the National Planning Policy Framework targets those areas where a reformed planning system can most effectively address climate change mitigation and adaptation and facilitate environmental improvements.
 - **Facilitate ambitious improvements in the energy efficiency standards for buildings** to help deliver our world-leading commitment to net-zero by 2050.
 - **Ask for beauty and be far more ambitious for the places we create, expecting new development to be beautiful, and to create a 'net gain' not just 'no net harm'**, with a greater focus on 'placemaking' and 'the creation of beautiful places' within the National Planning Policy Framework.
 - **Make it easier for those who want to build beautifully through the introduction of a fast-track for beauty** through changes to national policy and legislation, to

automatically permit proposals for high quality developments where they reflect local character and preferences.

- **Introduce a quicker, simpler framework for assessing environmental impacts and enhancement opportunities**, that speeds up the process while protecting and enhancing England’s unique ecosystems.
 - **Expect design guidance and codes – which will set the rules for the design of new development – to be prepared locally and to be based on genuine community involvement rather than meaningless consultation**, so that local residents have a genuine say in the design of new development, and ensure that codes have real ‘bite’ by making them more binding on planning decisions.
 - **Establish a new body to support the delivery of design codes in every part of the country**, and give permanence to the campaigning work of the Building Better, Building Beautiful Commission and the life of its co-chairman the late Sir Roger Scruton.
 - **Ensure that each local planning authority has a chief officer for design and place-making**, to help ensure there is the capacity and capability locally to raise design standards and the quality of development.
 - **Lead by example by updating Homes England’s strategic objectives to give greater emphasis to delivering beautiful places.**
 - **Protect our historic buildings and areas** while ensuring the consent framework is fit for the 21st century.
- 1.19. **Fourth, we will improve infrastructure delivery in all parts of the country and ensure developers play their part**, through reform of developer contributions. We propose:
- **The Community Infrastructure Levy and the current system of planning obligations will be reformed as a nationally-set value-based flat rate charge (‘the Infrastructure Levy’)**. A single rate or varied rates could be set. We will aim for the new Levy to raise more revenue than under the current system of developer contributions, and deliver at least as much – if not more – on-site affordable housing as at present. This reform will enable us to sweep away months of negotiation of Section 106 agreements and the need to consider site viability. We will deliver more of the infrastructure existing and new communities require by capturing a greater share of the uplift in land value that comes with development.
 - **We will be more ambitious for affordable housing provided through planning gain**, and we will ensure that the new Infrastructure Levy allows local planning authorities to secure more on-site housing provision.
 - **We will give local authorities greater powers to determine how developer contributions are used**, including by expanding the scope of the Levy to cover affordable housing provision to allow local planning authorities to drive up the provision of affordable homes. We will ensure that affordable housing provision supported through developer contributions is kept at least at current levels, and that it is still delivered on-site to ensure that new development continues to support mixed communities. Local authorities will have the flexibility to use this funding to support both existing communities as well as new communities.

- **We will also look to extend the scope of the consolidated Infrastructure Levy and remove exemptions from it** to capture changes of use through permitted development rights, so that additional homes delivered through this route bring with them support for new infrastructure.
- 1.20. **Fifth, to ensure more land is available for the homes and development people and communities need, and to support renewal of our town and city centres,** we propose:
- **A new nationally-determined, binding housing requirement that local planning authorities would have to deliver through their Local Plans.** This would be focused on areas where affordability pressure is highest to stop land supply being a barrier to enough homes being built. We propose that this would factor in land constraints, including the Green Belt, and would be consistent with our aspirations of creating a housing market that is capable of delivering 300,000 homes annually, and one million homes over this Parliament.
 - **To speed up construction where development has been permitted,** we propose to make it clear in the revised National Planning Policy Framework that the masterplans and design codes for sites prepared for substantial development should seek to include a variety of development types from different builders which allow more phases to come forward together. We will explore further options to support faster build out as we develop our proposals for the new planning system.
 - **To provide better information to local communities, to promote competition amongst developers, and to assist SMEs and new entrants to the sector,** we will consult on options for improving the data held on contractual arrangements used to control land.
 - **To make sure publicly-owned land and public investment in development supports thriving places,** we will:
 - ensure decisions on the locations of new public buildings – such as government offices and further education colleges – support renewal and regeneration of town centres; and
 - explore how publicly-owned land disposal can support the SME and self-build sectors.

The change we will see – a more engaging, equitable and effective system

- 1.21. Our proposals will greatly improve the user experience of the planning system, making it fit for the next century.
- 1.22. **Residents** will be able to engage in a much more democratic system that is open to a wider range of people whose voice is currently not heard. Residents will no longer have to rely on planning notices attached to lamp posts, printed in newspapers and posted in libraries to find out about newly proposed developments. Instead people will be able to use their smartphone to give their views on Local Plans and design codes as they are developed, and to see clearer, more visual information about development proposals near them – rather than current planning policies and

development proposals presented in PDF documents, hundreds of pages long. And existing and new residents alike will gain from more affordable, green and beautiful homes near to where they want to live and work.

- 1.23. **Communities** will be able to trust the planning system again as their voice will be heard from the beginning of the process and better use of digital technology will make it radically easier for people to understand what is being proposed in their neighbourhoods and provide new ways to feed their views into the reformed system. Local Plans will be developed over a fixed 30-month period with clear engagement points, rather than the current inconsistent process which takes seven years on average. The Infrastructure Levy will be more transparent than Section 106, and local communities will have more control over how it is spent. Communities will be able to set standards for design upfront through local design codes. And with more land available for homes where they are most needed, and a renewed focus on the beauty of new development, communities will be able to grow organically and sustainably, and development will enhance places for everyone.
- 1.24. **Innovators, entrepreneurs and businesses** will benefit from a planning system that is much more adaptable to the changing needs of the economy. A greater amount of land available near to workplaces, and a more flexible approach to how that land can be used, will make it much easier for firms to set up and expand in the most productive locations – for example, spin-out companies looking to set up near to research-intensive universities. A reformed system that is based upon data, rather than documents will help to provide the data that innovators and entrepreneurs, including the burgeoning PropTech sector, need to build new technology to help improve citizen engagement and planning processes.
- 1.25. **Small builders, housing associations and those building their own home**, will find this system much easier, less costly and quicker to navigate, with more land available for development, and clearer expectations on the types of development permitted, helping them to find development opportunities and use innovative construction methods. With permission for the principle of development secured automatically in many cases, a major hurdle in the process will be removed, taking two to three years out of the process. The system of developer contributions will make it much easier for smaller developers, who will not have to engage in months of negotiation and can instead get on with the job of building. And a shorter, more certain process will remove significant risk from the process, lowering the need for developers to secure long development pipelines and lowering the regulatory barriers to entry that currently exist in the market. A data-led planning system will help developers of all sizes and experience to find the planning information they need to understand what can be built and where, which will provide greater certainty to them and their investors.
- 1.26. **Local authorities**, including Mayoral combined authorities, will be liberated to plan and able to focus on what they do best, with the shackles of current burdensome assessments and negotiations removed. They will be able to give more attention to improving the quality of new development and focus on those large and special sites that need the most consideration. And the Government will support modernisation of the planning process so that routine tasks are automated and decision-making, and plan-making, is improved by better access to the data local authorities need.

- 1.27. **And for our children and grandchildren**, our reforms will leave an inheritance of environmental improvement – with environmental assets protected, more green spaces provided, more sustainable development supported, new homes that are much more energy efficient and new places that can become the heritage of the future, built closer to where people want to live and work to reduce our reliance on carbon-intensive modes of transport.
- 1.28. This consultation document does not address every detailed part of the planning system, its function and objectives, but rather focuses on the key reforms that can help improve the delivery and quality of homes and neighbourhoods, set within our drive towards net-zero greenhouse gas emissions by 2050.
- 1.29. And fixing the planning system alone will not be enough – it will require a collective effort between Government, communities, businesses and developers over the long-term. But fixing the planning system should be the starting point for these efforts.

Pillar One – Planning for development

Overview

- 2.1. The starting point for an effective planning system is to establish a clear and predictable basis for the pattern and form of development in an area. The current system of land use planning in England is principally based on local plans, brought forward by local planning authorities on behalf of their communities. But in contrast to planning systems in places like Japan, the Netherlands and Germany, where plans give greater certainty that development is permitted in principle upfront, plans in England are policy-based, with a separate process required to secure permission on the sites that it designates for development.
- 2.2 Local Plans are a good foundation on which to base reform, as they provide a route for local requirements to be identified and assessed, a forum for political debate and for different views on the future of areas to be heard. The National Planning Policy Framework provides a clear basis for those matters that are best set in national policy.
- 2.3 However, change is needed. Layers of assessment, guidance and policy have broadened the scope of Local Plans, requiring a disproportionate burden of evidence to support them. As a result, Local Plans take increasingly long to produce, on average over seven years; have become lengthier documents of increasing complexity, in some cases stretching to nearly 500 pages; are underpinned by vast swathes of evidence base documents, often totalling at least ten times the length of the plan itself, and none of which are clearly linked, standardised, or produced in accessible formats; and include much unnecessary repetition of national policy.
- 2.4 It is difficult for users of the planning system to find the information they need, and when they do, it is difficult to understand. Few people read the array of evidence base documents which accompany plans and these assessments do not sufficiently aid decision-making. Much of this evidence becomes dated very quickly, and production times often render policies out of date as soon as they are adopted. Furthermore, even when the plan is in place, it cannot be relied on as the definitive statement of how development proposals should be handled.
- 2.5 Local Plans should instead be focused on where they can add real value: allocating enough land for development in the right places, giving certainty about what can be developed on that land, making the process for getting permission for development as simple as possible, and providing local communities a genuine opportunity to shape those decisions. To this end, Local Plans should:
 - be based on transparent, clear requirements for local authorities to identify appropriate levels of, and locations for, development that provide certainty and that applicants and communities can easily understand;
 - communicate key information clearly and visually so that plans are accessible and easily understandable, and communities can engage meaningfully in the process of developing them;

- be published as standardised data to enable a strategic national map of planning to be created;
- be developed using a clear, efficient and standard process;
- benefit from a radically and profoundly re-invented engagement with local communities so that more democracy takes place effectively at the plan-making stage; and
- set clear expectations on what is required on land that is identified for development, so that plans give confidence in the future growth of areas and facilitate the delivery of beautiful and sustainable places.

Questions

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

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

[Yes / 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]

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]

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]

Proposals

2.6. We propose a new role for Local Plans and a new process for making them, by replacing the existing primary and secondary legislation.

A NEW APPROACH TO PLAN-MAKING

2.7. Local Plans should have a clear role and function, which should be, first, to identify land for development and sites that should be protected; and, second, to be clear about what development can take place in those different areas so that there is greater certainty about land allocated for development and so that there is a faster route to securing permission. They should be assessed against a single statutory “sustainable development” test to ensure plans strike the right balance between environmental, social and economic objectives.

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*.

2.8. All areas of land would be put into one of these three categories:

- ***Growth* areas “suitable for substantial development”** – we propose that the term substantial development be defined in policy to remove any debate about this descriptor. We envisage this category would include land suitable for comprehensive development, including new settlements and urban extension sites, and areas for redevelopment, such as former industrial sites or urban regeneration sites. It could also include proposals for sites such as those around universities where there may be opportunities to create a cluster of growth-focused businesses. Sites annotated in the Local Plan under this category would have outline approval for development (see proposal 5 for more detail). Areas of flood risk would be excluded from this category (as would other important constraints), unless any risk can be fully mitigated;
- ***Renewal* areas “suitable for development”** – this would cover existing built areas where smaller scale development is appropriate. It could include the gentle densification and infill of residential areas, development in town centres, and development in rural areas that is not annotated as *Growth* or *Protected* areas, such as small sites within or on the edge of villages. There would be a statutory presumption in favour of development being granted for the uses specified as being suitable in each area. Local authorities could continue to consider the case for resisting inappropriate development of residential gardens;
- **Areas that are *Protected*** – this would include sites and areas which, as a result of their particular environmental and/or cultural characteristics, would justify more stringent development controls to ensure sustainability. This would include areas such as Green Belt, Areas of Outstanding Natural Beauty (AONBs), Conservation Areas, Local Wildlife Sites, areas of significant flood risk and important areas of green space. At a smaller scale it can continue to include gardens in line with existing policy in the National Planning Policy Framework. It would also include areas of open countryside outside of land in *Growth* or *Renewal* areas. Some areas would be defined nationally, others locally on the basis of national policy, but all would be annotated in Local Plan maps and clearly signpost the relevant development restrictions defined in the National Planning Policy Framework.

2.9. This new-style Local Plan would comprise an interactive web-based map of the administrative area where data and policies are easily searchable, with a key and accompanying text. Areas and sites would be annotated and colour-coded in line with their *Growth*, *Renewal* or *Protected* designation, with explanatory descriptions set out in the key and accompanying text, as appropriate to the category.

2.10. In *Growth* and *Renewal* areas, the key and accompanying text would set out suitable development uses, as well as limitations on height and/or density as relevant. These could be specified for sub-areas within each category, determined locally but having regard to national policy, guidance and legislation (including the National Model Design Code and flexibilities in use allowed by virtue of the new Use Classes Order and permitted development). For example, it may be appropriate for some areas to be identified as suitable for higher-density residential development,

or for high streets and town centres to be identified as distinct areas. In *Growth* areas, we would also want to allow sub-areas to be created specifically for self and custom-build homes, and community-led housing developments, to allow a range of housing aspirations to be met and help create diverse and flourishing communities. In the case of self and custom-build homes, local authorities should identify enough land to meet the requirements identified in their self-build and custom housebuilding registers. For *Protected* areas, the key and accompanying text would explain what is permissible by cross-reference to the National Planning Policy Framework.

- 2.11. **Alternative options:** Rather than dividing land into three categories, we are also interested in views on more binary models. One option is to combine *Growth* and *Renewal* areas (as defined above) into one category and to extend permission in principle to all land within this area, based on the uses and forms of development specified for each sub-area within it.
- 2.12. An alternative approach would be to limit automatic permission in principle to land identified for substantial development in Local Plans (*Growth* areas); other areas of land would, as now, be identified for different forms of development in ways determined by the local planning authority (and taking into account policy in the National Planning Policy Framework), and subject to the existing development management process.

Question

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

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

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

- 2.13. With the primary focus of plan-making on identifying areas for development and protection, we propose that development management policy contained in the plan would be restricted to clear and necessary site or area-specific requirements, including broad height limits, scale and/or density limits for land included in *Growth* areas and *Renewal* areas, established through the accompanying text. The National Planning Policy Framework would become the primary source of policies for development management; there would be no provision for the inclusion of generic development management policies which simply repeat national policy within Local Plans, such as protections for listed buildings (although we are interested in views on the future of optional technical standards). We propose to turn plans from long lists of general “policies” to specific development standards.
- 2.14. Local planning authorities and neighbourhoods (through Neighbourhood Plans) would play a crucial role in producing required design guides and codes to provide certainty and reflect local character and preferences about the form and appearance of development. This is important for making plans more visual and engaging. These could be produced for a whole local authority area, or for a smaller area or site (as annotated in the Local Plan), or a combination of both. Design guides and codes would ideally be produced on a ‘twin track’ with the Local Plan, either for inclusion within the plan or prepared as supplementary planning documents.

- 2.15. We want to move to a position where all development management policies and code requirements, at national, local and neighbourhood level, are written in a machine-readable format so that wherever feasible, they can be used by digital services to automatically screen developments and help identify where they align with policies and/or codes. This will significantly increase clarity for those wishing to bring forward development, enabling automation of more binary considerations and allowing for a greater focus on those areas where there is likely to be greater subjectivity.
- 2.16. **Alternative options:** Rather than removing the ability for local authorities to include general development management policies in Local Plans, we could limit the scope of such policies to specific matters and standardise the way they are written, where exceptional circumstances necessitate a locally-defined approach. Another alternative would be to allow local authorities a similar level of flexibility to set development management policies as under the current Local Plans system, with the exception that policies which duplicate the National Planning Policy Framework would not be allowed.

Question

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.]

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

- 2.17. This would consider whether the plan contributes to achieving sustainable development in accordance with policy issued by the Secretary of State. The achievement of sustainable development is an existing and well-understood basis for the planning system, and we propose that it should be retained.
- 2.18. A simpler test, as well as more streamlined plans, should mean fewer requirements for assessments that add disproportionate delay to the plan-making process.
- 2.19. Specifically:
- we propose to abolish the Sustainability Appraisal system and develop a simplified process for assessing the environmental impact of plans, which would continue to satisfy the requirements of UK and international law and treaties (see our proposals under Pillar Two);
 - the Duty to Cooperate test would be removed (although further consideration will be given to the way in which strategic cross-boundary issues, such as major infrastructure or strategic sites, can be adequately planned for, including the scale at which plans are best prepared in areas with significant strategic challenges); and
 - a slimmed down assessment of deliverability for the plan would be incorporated into the “sustainable development” test.
- 2.20. Plans should be informed by appropriate infrastructure planning, and sites should not be included in the plan where there is no reasonable prospect of any

infrastructure that may be needed coming forward within the plan period. Plan-making policies in the National Planning Policy Framework will make this clear.

- 2.21. The new-style digital Local Plan would also help local planning authorities to engage with strategic cross-boundary issues and use data-driven insights to assess local infrastructure needs to help decide what infrastructure is needed and where it should be located.
- 2.22. **Alternative option:** Rather than removing the existing tests of soundness, an alternative option could be to reform them in order to make it easier for a suitable strategy to be found sound. For example, the tests could become less prescriptive about the need to demonstrate deliverability. Rather than demonstrating deliverability, local authorities could be required to identify a stock of reserve sites which could come forward for development if needed.

Questions

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.]

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

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.

- 2.23. Local Plans will need to identify areas to meet a range of development needs – such as homes, businesses and community facilities – for a minimum period of 10 years. This includes land needed to take advantage of local opportunities for economic growth, such as commercial space for spin-out companies near to university research and development facilities, or other high productivity businesses.
- 2.24. Debates about housing numbers tend to dominate this process, and a standard method for setting housing requirements would significantly reduce the time it takes to establish the amount of land to release in each area. This has historically been a time-consuming process which ultimately has not led to enough land being released where it is most needed (as reflected by worsening affordability). A standard requirement would differ from the current system of local housing need in that it would be binding, and so drive greater land release.
- 2.25. It is proposed that the standard method would be a means of distributing the national housebuilding target of 300,000 new homes annually, and one million homes by the end of the Parliament, having regard to:

- the size of existing urban settlements (so that development is targeted at areas that can absorb the level of housing proposed);
 - the relative affordability of places (so that the least affordable places where historic under-supply has been most chronic take a greater share of future development);
 - the extent of land constraints in an area to ensure that the requirement figure takes into account the practical limitations that some areas might face, including the presence of designated areas of environmental and heritage value, the Green Belt and flood risk. For example, areas in National Parks are highly desirable and housing supply has not kept up with demand; however, the whole purpose of National Parks would be undermined by multiple large scale housing developments so a standard method should factor this in;
 - the opportunities to better use existing brownfield land for housing, including through greater densification. The requirement figure will expect these opportunities to have been utilised fully before land constraints are taken into account;
 - the need to make an allowance for land required for other (non-residential) development; and
 - inclusion of an appropriate buffer to ensure enough land is provided to account for the drop off rate between permissions and completions as well as offering sufficient choice to the market.
- 2.26. The standard method would make it the responsibility of individual authorities to allocate land suitable for housing to meet the requirement, and they would continue to have choices about how to do so: for example through more effective use of existing residential land, greater densification, infilling and brownfield redevelopment, extensions to existing urban areas, or new settlements. The existing policy for protecting the Green Belt would remain. We also propose that it would be possible for authorities to agree an alternative distribution of their requirement in the context of joint planning arrangements. In particular, it may be appropriate for Mayors of combined authorities to oversee the strategic distribution of the requirement in a way that alters the distribution of numbers, and this would be allowed for.
- 2.27. In the current system the combination of the five-year housing land supply requirement, the Housing Delivery Test and the presumption in favour of sustainable development act as a check to ensure that enough land comes into the system. Our proposed approach should ensure that enough land is planned for, and with sufficient certainty about its availability for development, to avoid a continuing requirement to be able to demonstrate a five-year supply of land. However, having enough land supply in the system does not guarantee that it will be delivered, and so we propose to maintain the Housing Delivery Test and the presumption in favour of sustainable development as part of the new system.
- 2.28. **Alternative option:** It would be possible to leave the calculation of how much land to include in each category to local decision, but with a clear stipulation in policy that this should be sufficient to address the development needs of each area (so far as possible subject to recognised constraints), taking into account market signals indicating the degree to which existing needs are not being met. As now, a standard method could be retained to underpin this approach in relation to housing; and it

would be possible to make changes to the current approach that ensure that meeting minimum need is given greater weight to make sure sufficient land comes forward. However, we do not think that this approach would carry the same benefits of clarity and simplicity as our preferred option, and would also require additional safeguards to ensure that adequate land remains available, especially once the assessment of housing need has been translated into housing requirements. We would, therefore, propose to retain a five-year housing land supply requirement with this approach.

- 2.29. We have published a separate consultation on proposed changes to the standard method for assessing local housing need which is currently used in the process of establishing housing requirement figures. The future application of the formula proposed in the revised standard method consultation will be considered in the context of the proposals set out here. In particular, the methodology does not yet adjust for the land constraints, including Green Belt. We will consider further the options for doing this and welcome proposals.

Questions

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.]

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.]

A streamlined development management process with automatic planning permission for schemes in line with plans

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.

- 2.30. There will therefore be no need to submit a further planning application to test whether the site can be approved. Where the Local Plan has identified land for development, planning decisions should focus on resolving outstanding issues – not the principle of development.
- 2.31. In areas suitable for substantial development (*Growth* areas) an outline permission for the principle of development would be conferred by adoption of the Local Plan. Further details would be agreed and full permission achieved through streamlined and faster consent routes which focus on securing good design and addressing site-specific technical issues.
- 2.32. Detailed planning permission could be secured in one of three ways:
- a reformed reserved matters process for agreeing the issues which remain outstanding;

- a Local Development Order prepared by the local planning authority for the development which could be prepared in parallel with the Local Plan and be linked to a master plan and design codes; or
 - for exceptionally large sites such as a new town where there are often land assembly and planning challenges, we also want to explore whether a Development Consent Order under the Nationally Significant Infrastructure Projects regime could be an appropriate route to secure consents. Similarly, we will consider how the planning powers for Development Corporations can be reformed to reflect this new framework.
- 2.33. In areas suitable for development (*Renewal* areas), there would be a general presumption in favour of development established in legislation (achieved by strengthening the emphasis on taking a plan-led approach, with plans reflecting the general appropriateness of these areas for development). Consent for development would be granted in one of three ways:
- for pre-specified forms of development such as the redevelopment of certain building types, through a new permission route which gives an automatic consent if the scheme meets design and other prior approval requirements (as discussed further under the fast-track to beauty proposals set out under Pillar Two);
 - for other types of development, a faster planning application process where a planning application for the development would be determined in the context of the Local Plan description, for what development the area or site is appropriate for, and with reference to the National Planning Policy Framework; or
 - a Local or Neighbourhood Development Order.
- 2.34. In both the *Growth* and *Renewal* areas it would still be possible for a proposal which is different to the plan to come forward (if, for example, local circumstances had changed suddenly, or an unanticipated opportunity arose), but this would require a specific planning application. We expect this to be the exception rather than the rule: to improve certainty in the system, it will be important for everyone to have confidence that the plan will be the basis for decisions, and so we intend to strengthen the emphasis on a plan-led approach in legislation (alongside giving appropriate status to national planning policy for general development management matters).
- 2.35. In areas where development is restricted (*Protected* areas) any development proposals would come forward as now through planning applications being made to the local authority (except where they are subject to permitted development rights or development orders), and judged against policies set out in the National Planning Policy Framework.
- 2.36. We will consider the most effective means for neighbours and other interested parties to address any issues of concern where, under this system, the principle of development has been established leaving only detailed matters to be resolved.
- 2.37. Separate to these reforms, we also intend to consolidate other existing routes to permission which have accumulated over time, including simplified planning zones, enterprise zones and brownfield land registers.

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.]

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.]

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.]

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

2.38. For all types of planning applications regardless of the category of land, we want to see a much more streamlined and digitally enabled end to end process which is proportionate to the scale and nature of the development proposed, to ensure decisions are made faster. The well-established time limits of eight or 13 weeks for determining an application from validation to decision should be a firm deadline – not an aspiration which can be got around through extensions of time as routinely happens now.

2.39. To achieve this, we propose:

- the greater digitalisation of the application process to make it easier for applicants, especially those proposing smaller developments, to have certainty when they apply and engage with local planning authorities. In particular, the validation of applications should be integrated with the submission of the application so that the right information is provided at the start of the process. For Spending Review, the Government will prepare a specific, investable proposal for modernising planning systems in local government;
- A new, more modular, software landscape to encourage digital innovation and provide access to underlying data. This will help automate routine processes, such as knowing whether new applications are within the rules, which will support faster and more certain decision-making. We will work with tech companies and local planning authorities to modernise the software used for case-managing a planning application to improve the user-experience for those applying and reduce the errors and costs currently experienced by planning authorities;
- shorter and more standardised applications. The amount of key information required as part of the application should be reduced considerably and made machine-readable. A national data standard for smaller applications should be created. For major development, beyond relevant drawings and plans, there should only be one key standardised planning statement of no more than 50 pages to justify the development proposals in relation to the Local Plan and National Planning Policy Framework;

- data-rich planning application registers will be created so that planning application information can be easily found and monitored at a national scale, and new digital services can be built to help people use this data in innovative ways
 - data sets that underpin the planning system, including planning decisions and developer contributions, need to be standardised and made open and digitally accessible;
 - a digital template for planning notices will be created so that planning application information can be more effectively communicated and understood by local communities and used by new digital services;
 - greater standardisation of technical supporting information, for instance about local highway impacts, flood risk and heritage matters. We envisage design codes will help to reduce the need for significant supplementary information, but we recognise there may still need to be site specific information to mitigate wider impacts. For these issues, there should be clear national data standards and templates developed in conjunction with statutory consultees;
 - clearer and more consistent planning conditions, with standard national conditions to cover common issues;
 - a streamlined approach to developer contributions, which is discussed further under Pillar Three;
 - the delegation of detailed planning decisions to planning officers where the principle of development has been established, as detailed matters for consideration should be principally a matter for professional planning judgment.
- 2.40. We also believe there should be a clear incentive on the local planning authority to determine an application within the statutory time limits. This could involve the automatic refund of the planning fee for the application if they fail to determine it within the time limit. But we also want to explore whether some types of applications should be deemed to have been granted planning permission if there has not been a timely determination, to ensure targets are met and local authorities keep to the time limit in the majority of cases. We particularly want to ensure that the facilities and infrastructure that communities value, such as schools, hospitals and GP surgeries, are delivered quickly through the planning system.
- 2.41. There will remain a power to call in decisions by the Secretary of State and for applicants to appeal against a decision by a local planning authority. However, by ensuring greater certainty about the principle of development in Local Plans, we expect to see fewer appeals being considered by the Planning Inspectorate. For those that do go to appeal, we want to ensure the appeals process is faster, with the Inspectorate more digitally responsive and flexible. And to promote proper consideration of applications by planning committees, where applications are refused, we propose that applicants will be entitled to an automatic rebate of their planning application fee if they are successful at appeal.

Question

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

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

A new interactive, web-based map standard for planning documents

2.42. Planning documentation should reflect this simplified role for Local Plans and should support community engagement.

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

- 2.43. Interactive, map-based Local Plans will be built upon data standards and digital principles. To support local authorities in developing plans in this new format, we will publish a guide to the new Local Plan system and data standards and digital principles, including clearer expectations around the more limited evidence that will be expected to support “sustainable” Local Plans, accompanied by a “model” template for Local Plans and subsequent updates, well in advance of the legislation being brought into force. This will support standardisation of Local Plans across the country. The text-based component of plans should be limited to spatially-specific matters and capable of being accessible in a range of different formats, including through simple digital services on a smartphone.
- 2.44. To support open access to planning documents and improve public engagement in the plan-making process, plans should be fully digitised and web-based following agreed web standards rather than document based. This will allow for any updates to be published instantaneously and makes it easier to share across all parties and the wider public. Those digital plans should be carefully designed with the user in mind and to ensure inclusivity, so that they can be accessed in different formats, on different devices, and are accessible and understandable by all. Geospatial information associated with plans, such as sites and areas, should also be standardised and made openly available online. Taken together, these changes will enable a digital register of planning policies to be created so that new digital services can be built using this data, and this will also enable any existing or future mapping platforms to access and visualise Local Plans. This will make it easier for anyone to identify what can be built where. The data will be accessed by software used across the public sector and also by external PropTech entrepreneurs to improve transparency, decision-making and productivity in the sector. There should also be a long-term aim for any data produced to support Local Plans to be open and accessible online in machine-readable format and linked to the relevant policies and areas.
- 2.45. By shifting plan-making processes from documents to data, new digital civic engagement processes will be enabled. making it easier for people to understand what is being proposed where and how it will affect them. These tools have the potential to transform how communities engage with Local Plans, opening up new ways for people to feed their views into the system, including through social networks and via mobile phones. Early pilots from local planning authorities using emerging digital civic engagement tools have shown increased public participation from a broader audience, with one PropTech SME reporting that 70% of their users are under the age of 45¹².

¹² For more information see <https://www.commonplace.is/>

- 2.46. To encourage this step-change, we want to support local authorities to radically rethink how they produce their Local Plans, and profoundly re-invent the ambition, depth and breadth with which they engage with communities. We will set up a series of pilots to work with local authorities and tech companies (the emerging ‘PropTech’ sector) to develop innovative solutions to support plan-making activities and make community involvement more accessible and engaging. This could include measures to improve access to live information and data or the use of 3D visualisations and other tools to support good community engagement.

Question

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

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

A STREAMLINED, MORE ENGAGING PLAN-MAKING PROCESS

- 2.47. The average time taken from plan publication to adoption rose from an average of 450 days in 2009 to 815 days in 2019. There is currently no statutory requirement around timescales for key stages of the plan-making process.

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.

- 2.48. Under the current system, it regularly takes over a decade for development sites to go through the Local Plan process and receive outline permission. Under our proposals, this would be shortened to 30 months, although we expect many local authorities could do this in a shorter time and we would encourage them to do so where this is practicable. We propose that the process covers five stages, with meaningful public engagement at two stages:
- Stage 1 [6 months]: The local planning authority “calls for” suggestions for areas under the three categories, including comprehensive “best in class” ways of achieving public involvement at this plan-shaping stage for where development should go and what it should look like.
 - Stage 2 [12 months]: The local planning authority draws up its proposed Local Plan, and produces any necessary evidence to inform and justify the plan. “Higher-risk” authorities will receive mandatory Planning Inspectorate advisory visits, in order to ensure the plan is on track prior to submission.
 - Stage 3 [6 weeks]: The local planning authority simultaneously
 - (i) submits the Plan to the Secretary of State for Examination together with a Statement of Reasons to explain why it has drawn up its plan as it has; and
 - (ii) publicises the plan for the public to comment on. Comments seeking change must explain how the plan should be changed and why. Again, this process would embody ‘best in class’ ways of ensuring public involvement. Responses will have a word count limit.
 - Stage 4 [9 months]: A planning inspector appointed by the Secretary of State considers whether the three categories shown in the proposed Local Plan are

“sustainable” as per the statutory test and accompanying national guidance and makes binding changes which are necessary to satisfy the test. The plan-making authority and all those who submitted comments would have the right to be “heard” by the inspector (whether face to face, by video, phone or in writing – all at the inspector’s discretion). The inspector’s report can, as relevant, simply state agreement with the whole or parts of the council’s Statement of Reasons, and/or comments submitted by the public.

- Stage 5 [6 weeks]: Local Plan map, key and text are finalised, and come into force.
- 2.49. Taken together, the effect of these reforms would be to greatly simplify and shorten the plan-making and development process, ensuring more land comes through the system and does so at pace.
- 2.50. To support the transition to the new system, we propose a statutory duty for local authorities to adopt a new Local Plan by a specified date – either 30 months from the legislation being brought into force, or 42 months for local planning authorities who have adopted a Local Plan within the previous three years or where a Local Plan has been submitted to the Secretary of State for examination. In the latter case, the 42 month period would commence from the point at which the legislation is brought into force, or upon adoption of the most recent plan, whichever is later.
- 2.51. This should be accompanied by a requirement for each planning authority to review its Local Plan at least every five years. Reviews should be undertaken sooner than five years where there has been a significant change in circumstances, for instance where issues with land supply have been identified through regular monitoring. Where a review concludes that an update is required, then the same 30-month deadline would apply although there would be an expectation that in many cases an update could be completed more quickly.
- 2.52. Local planning authorities that fail to do what is required to get their plan in place, or keep it up to date, would be at risk of government intervention. A range of intervention options will be available, including the issuing of directions and preparation of a plan in consultation with local people. Decisions on intervention would also have regard to:
- the level of housing requirement in the area;
 - the planning context of the area, including any co-operation to get plans in place across local planning authority boundaries;
 - any exceptional circumstances presented by the local planning authority.
- 2.53. **Alternative options:** The existing examination process could be reformed in order to speed up the process. For instance, the automatic ‘right to be heard’ could be removed so that participants are invited to appear at hearings at the discretion of the inspector. Certain Local Plans, that are less complex or controversial, could also be examined through written representations only, as is usually the case with Neighbourhood Plans at present.
- 2.54. A further alternative could be to remove the Examination stage entirely, instead requiring Local Planning Authorities to undertake a process of self-assessment against set criteria and guidance. To supplement this, the Planning Inspectorate could be utilised to audit a certain number of completed plans each year in order to

assess whether the requirements of the statutory sustainability test had been met. However, there is a risk that this option wouldn't provide sufficient scrutiny around whether plans meet the necessary legal and policy tests.

Question

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.]

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

- 2.55. Since statutory Neighbourhood Plans became part of the system in 2011, over 2,600 communities have started the process of neighbourhood planning to take advantage of the opportunity to prepare a plan for their own areas – and over 1,000 plans have been successfully passed at referendum. They have become an important tool in helping to 'bring the democracy forward' in planning, by allowing communities to think proactively about how they would like their areas to develop.
- 2.56. Therefore, we think Neighbourhood Plans should be retained in the reformed planning system, but we will want to consider whether their content should become more focused to reflect our proposals for Local Plans, as well as the opportunities which digital tools and data offer to support their development and improve accessibility for users. By making it easier to develop Neighbourhood Plans we wish to encourage their continued use and indeed to help spread their use further, particularly in towns and cities. We are also interested in whether there is scope to extend and adapt the concept so that very small areas – such as individual streets – can set their own rules for the form of development which they are happy to see.
- 2.57. Digital tools have significant potential to assist the process of Neighbourhood Plan production, including through new digital co-creation platforms and 3D visualisation technologies to explore proposals within the local context. We will develop pilot projects and data standards which help neighbourhood planning groups make the most of this potential.

Questions

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

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

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?

SPEEDING UP THE DELIVERY OF DEVELOPMENT

- 2.58. Our plans for a simpler and faster planning process need to be accompanied by a stronger emphasis on the faster delivery of development, especially for *Growth* areas where substantial development has been permitted. If local communities

through the new Local Plan process have identified sites for substantial development over the next ten years and developers have secured planning consents, there should be a presumption that these sites will be built out quickly. But as Rt. Hon. Sir Oliver Letwin found in his Independent Review of Build Out Rates in 2018, the build out of large residential developments can be slow due to low market absorption rates, with some sites taking over 20 years to complete.

Proposal 10: A stronger emphasis on build out through planning

2.59. To address this, we propose to make it clear in the revised National Planning Policy Framework that the masterplans and design codes for sites prepared for substantial development (discussed under Pillar Two) should seek to include a variety of development types by different builders which allow more phases to come forward together. We will explore further options to support faster build out as we develop our proposals for the new planning system.

Question

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.]

Pillar Two – Planning for beautiful and sustainable places

Overview

- 3.1. We have set out how a simpler planning process could improve certainty about what can be built where, as well as offering greater flexibility in the use of land to meet our changing economic and social needs. But improving the process of planning is only the starting point – we want to ensure that we have a system in place that enables the creation of beautiful places that will stand the test of time, protects and enhances our precious environment, and supports our efforts to combat climate change and bring greenhouse gas emissions to net-zero by 2050. Recent research from the Royal Town Planning Institute has set out the vital contribution that planning can make to a sustainable and inclusive recovery.¹³
- 3.2. To do this, planning should be a powerful tool for creating visions of how places can be, engaging communities in that process and fostering high quality development: not just beautiful buildings, but the gardens, parks and other green spaces in between, as well as the facilities which are essential for building a real sense of community. It should generate net gains for the quality of our built and natural environments - not just 'no net harm'.
- 3.3. As the report of the Building Better, Building Beautiful Commission has shown, all too often that potential has fallen short. Too many places built during recent decades fail to reflect what is special about their local area or create a high quality environment of which local people can be proud. The Commission has played an invaluable role not just in highlighting the deficiencies, but in setting out a wide range of recommendations for addressing them. We will respond fully to the Commission's report in the autumn, but there are important aspects that we want to highlight now, as being integral to our proposals for what a revised planning system can achieve.

Questions

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]

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]

¹³ RTPI (2020) "Plan the world we need: The contribution of planning to a sustainable, resilient and inclusive recovery", available at: <https://www.rtpi.org.uk/research/2020/june/plan-the-world-we-need/>.

Proposals

CREATING FRAMEWORKS FOR QUALITY

- 3.4. To deliver our vision, it is important for the planning system to set clear expectations for the form of development which we expect to see in different locations. It should do so in ways which reflect local character and community preferences, and the types of buildings and places that have stood the test of time; but it should also address modern lifestyles, facilitate modern methods of construction (and its associated benefits for efficiency, build quality and the environment) and the need to create places that are both durable and sustainable. History provides many examples of how we can do this well – including Georgian terraces and Victorian mansion blocks – and we should learn from what has worked in the past.
- 3.5. Our National Design Guide, published in October last year, illustrates how well-designed places that are beautiful, enduring and successful can be achieved in practice. It is a vital starting point, defining ten characteristics of successful places and the ingredients which can deliver these. However, to provide as much clarity as possible for applicants and communities and provide the basis for ‘fast-tracking’ decisions on design, broad principles need to be turned into more specific standards.
- 3.6. To address this challenge, this autumn we will publish a National Model Design Code to supplement the guide, setting out more detailed parameters for development in different types of location: issues such as the arrangement and proportions of streets and urban blocks, positioning and hierarchy of public spaces, successful parking arrangements, placement of street trees, and high quality cycling and walking provision, in line with our wider vision for cycling and walking in England.¹⁴ It will be accompanied by worked examples, and complement a revised and consolidated Manual for Streets.

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.

- 3.7. As national guidance, we will expect the National Design Guide, National Model Design Code and the revised Manual for Streets to have a direct bearing on the design of new communities. But to ensure that schemes reflect the diverse character of our country, as well as what is provably popular locally, it is important that local guides and codes are prepared wherever possible. These play the vital role of translating the basic characteristics of good places into what works locally, and can already be brought forward in a number of ways: by local planning authorities to supplement and add a visual dimension to their Local Plans; through the work of neighbourhood planning groups; or by applicants in bringing forward proposals for significant new areas of development.

¹⁴ Our plan for cycling and walking is available at <https://www.gov.uk/government/publications/cycling-and-walking-plan-for-england>.

- 3.8. We propose that these different routes for bringing forward design guides and codes should remain, although in all cases it will be essential that they are prepared with effective inputs from the local community, considering empirical evidence of what is popular and characteristic in the local area. To underpin the importance of this, we intend to make clear that designs and codes should only be given weight in the planning process if they can demonstrate that this input has been secured. And, where this is the case, we will also make clear that decisions on design should be made in line with these documents. Where locally-produced guides and codes are not in place, we also propose to make clear in policy that the National Design Guide, National Model Design Code and Manual for Streets should guide decisions on the form of development.

Question

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.]

- 3.9. The Building Better, Building Beautiful Commission recommended several other changes to the National Planning Policy Framework that can support the planning system's role in fostering better buildings, places and settlements, and we will consult on changes which reflect these recommendations in the autumn.

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.

- 3.10. The vision which we have set out will require a step-change in the design skills available to many local planning authorities, as well as the right prioritisation and leadership across the sector. We recognise that this will not happen overnight, and that authorities will need support.
- 3.11. We will explore the options for establishing a new expert body which can help authorities make effective use of design guidance and codes, as well as performing a wider monitoring and challenge role for the sector in building better places. Different models exist for how this could be taken forward - such as a new arms-length body reporting to Government, a new centre of expertise within Homes England, or reinforcing the existing network of architecture and design centres. Whatever model is adopted, we envisage that it would be able to draw on the expertise of recognised experts with a range of skills, drawn from across the built environment sector. Should the final proposals lead to the creation of new central government arm's-length body, then the usual, separate government approval process would apply for such entities.
- 3.12. We will also bring forward proposals later this year for improving the resourcing of planning departments more broadly; and our suggestions in this paper for streamlining plan-making will allow some re-focusing of professional skills. However, effective leadership within authorities will also be crucial. To drive a strong vision for what each place aspires to, and ensure this is integrated across council functions, we believe that each authority should appoint a chief officer for

design and place-making, as recommended by the Building Better, Building Beautiful Commission.

Question

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.]

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.

- 3.13. We are committed to taking a leadership role in the delivery of beautiful and well-designed homes and places, which embed high environmental standards. The Building Better, Building Beautiful Commission recommended that Homes England should attach sufficient value to design as well as price, and give greater weight to design quality in its work.
- 3.14. The Government supports this recommendation and recognises that the work of Homes England is an important route through which we can lead by example. Homes England have already taken steps to champion design quality in their land disposals programme, through implementation of a design quality assessment approach, with a minimum standard which must be achieved for a proposal to progress.
- 3.15. However, we recognise that there is an opportunity to go further, and we will engage Homes England, as part of the forthcoming Spending Review process, to consider how its objectives might be strengthened to give greater weight to design quality, and assess how design quality and environmental standards can be more deeply embedded in all Homes England’s activities and programmes of work.

Question

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.]

A FAST-TRACK FOR BEAUTY

- 3.16. One of the important propositions of the Building Better, Building Beautiful Commission is that there should be a ‘fast-track for beauty’. Where proposals come forward which comply with pre-established principles of what good design looks like (informed by community preferences), then it should be possible to expedite development through the planning process. This should incentivise attractive and popular development, as well as helping to relieve pressure on planning authorities when assessing proposals.

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.

- 3.17. We propose to do this in three ways. In the first instance, through updating the National Planning Policy Framework, we will make clear that schemes which comply with local design guides and codes have a positive advantage and greater certainty about their prospects of swift approval.
- 3.18. Second, where plans identify areas for significant development (*Growth* areas), we will legislate to require that a masterplan and site-specific code are agreed as a condition of the permission in principle which is granted through the plan. This should be in place prior to detailed proposals coming forward, to direct and expedite those detailed matters. These masterplans and codes could be prepared by the local planning authority alongside or subsequent to preparing its plan, at a level of detail commensurate with the size of site and key principles to be established. For example, a set of simple ‘co-ordinating codes’ of the sort endorsed by the Building Better, Building Beautiful Commission could set some initial key parameters for the site layout. Where sites are expected to come forward in the near future, more developed masterplans or codes, prepared by the local planning authority or site promoter, will provide greater certainty.
- 3.19. Third, we also propose to legislate to widen and change the nature of permitted development, so that it enables popular and replicable forms of development to be approved easily and quickly, helping to support ‘gentle intensification’ of our towns and cities, but in accordance with important design principles. There is a long history – in this country and elsewhere – of ‘pattern books’ being used to articulate standard building types, options and associated rules (such as heights and set-backs). They have helped to deliver some of our most popular and successful places, and in a way which makes it relatively easy for smaller development companies to enter the market. We want to revive this tradition, in areas suitable for development (*Renewal* areas), by allowing the pre-approval of popular and replicable designs through permitted development. The benefits are much more than fast delivery of proven popular designs – it will foster innovation and support industrialisation of housebuilding, enabling modern methods of construction to be developed and deployed at scale.
- 3.20. To take this approach forward, we intend to develop a limited set of form-based development types that allow the redevelopment of existing residential buildings where the relevant conditions are satisfied – enabling increased densities while maintaining visual harmony in a range of common development settings (such as semi-detached suburban development). These would benefit from permitted development rights relating to the settings in which they apply. Prior approval from the local planning authority would still be needed for aspects of the design to ensure the development is right for its context (such as materials), as well as for other important planning considerations such as avoidance of flood risk and securing safe access. To enable further tailoring of these patterns to local character and preferences, we also propose that local planning authorities or neighbourhood planning groups would be able to use local orders to modify how the standard types apply in their areas, based on local evidence of what options are most popular with the wider public.

- 3.21. This proposal will require some technical development and testing, so we will develop a pilot programme to test the concept. Where we are taking forward existing schemes to expand the scope of permitted development through upwards extensions and demolition/rebuilding, we also intend to legislate so that prior approval for exercising such rights takes into account design codes which are in place locally (or, in the absence of these, the National Model Design Code).

Question

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

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

EFFECTIVE STEWARDSHIP AND ENHANCEMENT OF OUR NATURAL AND HISTORIC ENVIRONMENT

- 3.22. The reformed planning system will continue to protect the places of environmental and cultural value which matter to us. Plans will still play a vital role in identifying not just areas of defined national and international importance (such as National Parks and Sites of Special Scientific Interest), but also those which are valued and defined locally (such as Conservation Areas and Local Wildlife Sites).
- 3.23. However, the planning system can and should do much more than this. In line with the ambitions in our 25 Year Environment Plan, we want the reformed system to play a proactive role in promoting environmental recovery and long-term sustainability. In doing so, it needs to play a strong part in our efforts to mitigate and adapt to climate change and reduce pollution as well as making our towns and cities more liveable through enabling more and better green spaces and tree cover. Several initiatives are already laying the foundations for this. Nationally, the Environment Bill currently before Parliament will legislate for mandatory net gains for biodiversity as a condition of most new development. And the Local Nature Recovery Strategies which it will also introduce will identify opportunities to secure enhancements through development schemes and contributions. We will also deliver our commitment to make all new streets tree-lined, by setting clear expectations through the changes to the National Planning Policy Framework which will be consulted on in the autumn, and informed by the outcome of this summer's consultation on the England Tree Strategy.¹⁵ And we are also assessing the extent to which our planning policies and processes for managing flood risk may need to be strengthened along with developing a national framework of green infrastructure standards.
- 3.24. Once the proposals in this paper for reformed Local Plans begin to be implemented, it will be important for authorities to consider how the identification of different categories of land, and any sub-areas within them, can most effectively support climate change mitigation and adaptation. For example, in identifying land for inclusion within the *Growth* area, or the densities of development appropriate in different locations, the ability to maximise walking, cycling and public transport opportunities will be an important consideration.

¹⁵ To give your views on the England Tree Strategy, please visit <https://consult.defra.gov.uk/forestry/england-tree-strategy/>.

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.

- 3.25. These measures, and reform of our policy framework, provide important opportunities to strengthen the way that environmental issues are considered through the planning system. However, we also think there is scope to marry these changes with a simpler, effective approach to assessing environmental impacts.
- 3.26. In doing so, we will want to be clear about the role that local, spatially-specific policies can continue to play, such as in identifying important views, opportunities to improve public access or places where renewable energy or woodland and forestry creation could be accommodated. In reviewing the Framework, we will also want to ensure that it provides a clear and robust basis for development management decisions more generally, so that reliance no longer needs to be placed on generic policies contained in Local Plans.

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.

- 3.27. It is vital that environmental considerations are considered properly as part of the planning and development process. However, the current frameworks for doing so – which include Strategic Environmental Assessment, Sustainability Appraisal, and Environmental Impact Assessment – can lead to duplication of effort and overly-long reports which inhibit transparency and add unnecessary delays. Outside of the European Union, it is also important that we take the opportunity to strengthen protections that make the biggest difference to species, habitats and ecosystems of national importance, and that matter the most to local communities.
- 3.28. To succeed, a new system will need to meet several objectives:
- Processes for environmental assessment and mitigation need to be quicker and speed up decision-making and the delivery of development projects. The environmental aspects of a plan or project should be considered early in the process, and to clear timescales. National and local level data, made available to authorities, communities and applicants in digital form, should make it easier to re-use and update information and reduce the need for site-specific surveys.
 - Requirements for environmental assessment and mitigation need to be simpler to understand and consolidated in one place so far as possible, so that the same impacts and opportunities do not need to be considered twice.
 - Any new system will need to ensure that we take advantage of opportunities for environmental improvements while also meeting our domestic and international obligations for environmental protection. This will be the subject of a separate and more detailed consultation in the autumn.

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

- 3.29. The planning system has played a critical role ensuring the historic buildings and areas we cherish are conserved and, where appropriate, enhanced by development. The additional statutory protections of listed building consent and conservation area status have worked well, and the National Planning Policy Framework already sets out strong protections for heritage assets where planning permission or listed building consent is needed. We want to build on this framework as we develop the new planning system. We envisage that Local Plans will clearly identify the location of internationally, nationally and locally designated heritage assets, such as World Heritage Sites and conservation areas, as well locally important features such as protected views.
- 3.30. We also want to ensure our historic buildings play a central part in the renewal of our cities, towns and villages. Many will need to be adapted to changing uses and to respond to new challenges, such as mitigating and adapting to climate change. We particularly want to see more historical buildings have the right energy efficiency measures to support our zero carbon objectives. Key to this will be ensuring the planning consent framework is sufficiently responsive to sympathetic changes, and timely and informed decisions are made.
- 3.31. We will, therefore, review and update the planning framework for listed buildings and conservation areas, to ensure their significance is conserved while allowing, where appropriate, sympathetic changes to support their continued use and address climate change. In doing so, we want to explore whether there are new and better ways of securing consent for routine works, to enable local planning authorities to concentrate on conserving and enhancing the most important historic buildings. This includes exploring whether suitably experienced architectural specialists can have earned autonomy from routine listed building consents.

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.

- 3.32. The planning system is only one of the tools that we need to use to mitigate and adapt to climate change. Last year we consulted on our proposals to move towards a Future Homes Standard, which was a first step towards net zero homes. From 2025, we expect new homes to produce 75-80 per cent lower CO2 emissions compared to current levels. These homes will be 'zero carbon ready', with the ability to become fully zero carbon homes over time as the electricity grid decarbonises, without the need for further costly retrofitting work.
- 3.33. We welcome the Committee on Climate Change's response to the consultation and we have considered the points they raised. We will respond to the Future Homes Standard consultation in full in the autumn. As part of this, we intend to review the roadmap to the Future Homes Standard to ensure that implementation takes place to the shortest possible timeline. Our ambition is that homes built under our new planning system will not need retrofitting in the future. To work towards ensuring that all new homes are fit for a zero carbon future we will also explore options for the future of energy efficiency standards, beyond 2025.

- 3.34. All levels of Government have a role to play in meeting our net zero goal, and Local Authorities are rising to this challenge. Local Planning Authorities, as well as central Government, should be accountable for the actions that they are taking, and the consultation response will look to clarify the role that they can play in setting energy efficiency standards for new build developments.
- 3.35. We will also want to ensure that high standards for the design, environmental performance and safety of new and refurbished buildings are monitored and enforced. As local authorities are freed from many planning obligations through our reforms, they will be able to reassign resources and focus more fully on enforcement. Ensuring that planning standards and building regulations are met, whether for new homes or for retrofitting old homes, will help to ensure that we deliver homes that are fit for the future and cheaper to run.

Pillar Three – Planning for infrastructure and connected places

Overview

- 4.1. New development brings with it new demand for public services and infrastructure. Mitigating these impacts – by securing contributions from developers and capturing more land value uplift generated by planning decisions to deliver new infrastructure provision – is key for both new and existing communities. It is also central to our vision for renewal of the planning system.
- 4.2. At present, there are two broad routes for local planning authorities to secure developer contributions, both of which are discretionary for authorities: planning obligations and the Community Infrastructure Levy. Planning obligations – through Section 106 agreements – are negotiated with developers, and in 2018/19 were worth a total of £7bn, of which £4.7bn was in the form of affordable housing contributions – supporting delivery of 30,000 affordable homes. In contrast, the Community Infrastructure Levy is a fixed charge, levied on the area (floorspace) of new development, and secures infrastructure that addresses the cumulative impact of development in an area. The Community Infrastructure Levy is not mandatory for local planning authorities, and around half of authorities currently charge it. Levy rates are discretionary, established by assessments of infrastructure need and viability.
- 4.3. There are several problems with this system. Planning obligations are broadly considered to be uncertain and opaque, as they are subject to negotiation and renegotiation based in part on the developer's assessment of viability. This creates uncertainty for communities about the level of affordable housing and infrastructure that development will bring. In turn, this brings cost, delay and inconsistency into the process. Over 80 per cent of local authorities agree that such negotiations create delay, despite the planning application being acceptable in principle.¹⁶ This acts as a barrier to entry to the market, and major developers are better placed to devote the legal and valuation resource needed to negotiate successfully. This unevenness is a problem too for local authorities, with significant variation in skill and negotiation in negotiating viability across authorities.
- 4.4. The Community Infrastructure Levy addresses many of these problems as it is a flat-rate and non-negotiable tariff, and developers and local authorities have, in general, welcomed the certainty it brings. However, as payment is set at the point planning permission is granted, and payment due once development commences, it is inflexible in the face of changing market conditions. Payment before a single home has been built increases the developer's risk and cost of finance, creating cashflow challenges which are more acute for smaller developers. And despite early payment, many local authorities have been slow to spend Community Infrastructure Levy revenue on early infrastructure delivery, reflecting factors

¹⁶ MHCLG (2019) *The Value and Incidence of Developer Contributions in England 2018/19*

including indecision, competing spending priorities, and uncertainty over other infrastructure funding streams.

- 4.5. Securing necessary infrastructure and affordable housing alongside new development is central to our vision for the planning system. We want to bring forward reforms to make sure that developer contributions are:
- responsive to local needs, to ensure a fairer contribution from developers for local communities so that the right infrastructure and affordable housing is delivered;
 - transparent, so it is clear to existing and new residents what new infrastructure will accompany development;
 - consistent and simplified, to remove unnecessary delay and support competition in the housebuilding industry;
 - buoyant, so that when prices go up the benefits are shared fairly between developers and the local community, and when prices go down there is no need to re-negotiate agreements.
- 4.6. The Government could also seek to use developer contributions to capture a greater proportion of the land value uplift that occurs through the grant of planning permission, and use this to enhance infrastructure delivery. There are a range of estimates for the amount of land value uplift currently captured, from 25 to 50 per cent¹⁷. The value captured will depend on a range of factors including the development value, the existing use value of the land, and the relevant tax structure – for instance, whether capital gains tax applies to the land sale. Increasing value capture could be an important source of infrastructure funding but would need to be balanced against risks to development viability.

Question

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]

Proposals

A CONSOLIDATED INFRASTRUCTURE LEVY

4.7. We propose that the existing parallel regimes for securing developer contributions are replaced with a new, consolidated 'Infrastructure Levy'.

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.

¹⁷ Estimates provided to the Housing, Communities and Local Government Select Committee Inquiry into Land Value Capture: <https://publications.parliament.uk/pa/cm201719/cmselect/cmcomloc/766/766.pdf>

- 4.8. We believe that the current system of planning obligations under Section 106 should be consolidated under a reformed, extended 'Infrastructure Levy'.
- 4.9. This would be based upon a flat-rate, valued-based charge, set nationally, at either a single rate, or at area-specific rates. This would address issues in the current system as it would:
- be charged on the final value of a development (or to an assessment of the sales value where the development is not sold, e.g. for homes built for the rental market), based on the applicable rate at the point planning permission is granted;
 - be levied at point of occupation, with prevention of occupation being a potential sanction for non-payment;
 - include a value-based minimum threshold below which the levy is not charged, to prevent low viability development becoming unviable, reflecting average build costs per square metre, with a small, fixed allowance for land costs. Where the value of development is below the threshold, no Levy would be charged. Where the value of development is above the threshold, the Levy would only be charged on the proportion of the value that exceeded the threshold ; and
 - provide greater certainty for communities and developers about what the level of developer contributions are expected alongside new development.
- 4.10. The single rate, or area-specific rates, would be set nationally. It would aim to increase revenue levels nationally when compared to the current system. Revenues would continue to be collected and spent locally.
- 4.11. As a value-based charge across all use classes, we believe it would be both more effective at capturing increases in value and would be more sensitive to economic downturns. It would reduce risk for developers, and would reduce cashflow difficulties, particularly for SME developers.
- 4.12. In areas where land value uplift is insufficient to support significant levels of land value capture, some or all of the value generated by the development would be below the threshold, and so not subject to the levy. In higher value areas, a much greater proportion of the development value would be above the exempt amount, and subject to the levy.
- 4.13. To better support the timely delivery of infrastructure, we would also allow local authorities to borrow against Infrastructure Levy revenues so that they could forward fund infrastructure. Enabling borrowing combined with a shift to levying developer contributions on completion, would incentivise local authorities to deliver enabling infrastructure, in turn helping to ensure development can be completed faster. As with all volatile borrowing streams, local authorities should assure themselves that this borrowing is affordable and suitable.
- 4.14. Under this approach the London Mayoral Community Infrastructure Levy, and similar strategic Community Infrastructure Levies in combined authorities, could be retained as part of the Infrastructure Levy to support the funding of strategic infrastructure.

- 4.15. In bringing forward the reformed Infrastructure Levy, we will need to consider its scope. We will also consider the impact of this change on areas with lower land values.
- 4.16. **Alternative option:** The Infrastructure Levy could remain optional and would be set by individual local authorities. However, as planning obligations would be consolidated into the single Infrastructure Levy, we anticipate that there would be a significantly greater uptake. The aim of the *de minimis* threshold would be to remove the viability risk, simplifying the rate setting process, as this would remove the need for multiple charging zones within an authority. It would be possible to simplify further – for instance, for the Government to set parameters. There would be a stronger incentive for local authorities to introduce the new Levy, as they would not be able to use Section 106 planning obligations to secure infrastructure or affordable housing. In addition, some local authorities have chosen not to introduce the Community Infrastructure Levy out of concern for the impact on viability of development. Because the new Infrastructure Levy would only be charged above a set threshold, these impacts would be mitigated.
- 4.17. This option would address issues around transparency, responsiveness to local needs and consistency. However, the Government’s levers over levels of land value capture would be less strong, with decisions about levy rates being taken at the local level.
- 4.18. Alternatively, the national rate approach could be taken, but with the aim of capturing more land value than currently, to better support the delivery of infrastructure. While developers would be liable for paying the levy, the cost of this would be capitalised into land value. This would ensure that the landowners who benefit from increases in value as a result of the grant of planning permission contribute to the infrastructure and affordable housing that makes development acceptable.

Questions

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.]

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]

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.]

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.]

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

- 4.19. In making this change to developer contributions for new development, the scope of the Infrastructure Levy would be extended to better capture changes of use which require planning permission, even where there is no additional floorspace, and for some permitted development rights including office to residential conversions and new demolition and rebuild permitted development rights. This approach would increase the levy base, and would allow these developments to better contribute to infrastructure delivery and making development acceptable to the community. However, we will maintain the exemption of self and custom-build development from the Infrastructure Levy.

Question

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.]

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

- 4.20. Developer contributions currently deliver around half of all affordable housing, most of which is delivered on-site. It is important that the reformed approach will continue to deliver on-site affordable housing at least at present levels.
- 4.21. Affordable housing provision is currently secured by local authorities via Section 106, but the Community Infrastructure Levy cannot be spent on it. With Section 106 planning obligations removed, we propose that under the Infrastructure Levy, authorities would be able to use funds raised through the levy to secure affordable housing.
- 4.22. This could be secured through in-kind delivery on-site, which could be made mandatory where an authority has a requirement, capability and wishes to do so. Local authorities would have a means to specify the forms and tenures of the on-site provision, working with a nominated affordable housing provider. Under this approach, a provider of affordable housing could purchase the dwelling at a discount from market rate, as now. However, rather than the discount being secured through Section 106 planning obligations, it would instead be considered as in-kind delivery of the Infrastructure Levy. In effect, the difference between the price at which the unit was sold to the provider and the market price would be offset from the final cash liability to the Levy. This would create an incentive for the developer to build on-site affordable housing where appropriate.¹⁸ First Homes,

¹⁸ As above, a Section 106 planning obligation could still be used to secure a covenant on the land, where necessary. However, the value would be captured through the Infrastructure Levy, rather than Section 106.

which are sold by the developer direct to the customer at a discount to market price, would offset the discount against the cash liability.

- 4.23. Under this approach we recognise that some risk is transferring to the local planning authority, and that we would need to mitigate that risk in order to maintain existing levels of on-site affordable housing delivery. We believe that this risk can be fully addressed through policy design. In particular, in the event of a market fall, we could allow local planning authorities to ‘flip’ a proportion of units back to market units which the developer can sell, if Levy liabilities are insufficient to cover the value secured through in-kind contributions. Alternatively, we could require that if the value secured through in-kind units is greater than the final levy liability, then the developer has no right to reclaim overpayments. Government could provide standardised agreements, to codify how risk sharing would work in this way.
- 4.24. We would also need to ensure the developer was incentivised to deliver high build and design quality for their in-kind affordable homes. Currently, if Section 106 homes are not of sufficient quality, developers may be unable to sell it to a provider, or have to reduce the price. To ensure developers are not rewarded for low-standard homes under the Levy, local authorities could have an option to revert back to cash contributions if no provider was willing to buy the homes due to their poor quality. It is important that any approach taken maintains the quality of affordable housing provision as well as overarching volumes, and incentivises early engagement between providers of affordable housing and developers. Local authorities could also accept Infrastructure Levy payments in the form of land within or adjacent to a site. Through borrowing against further Infrastructure Levy receipts, other sources of funding, or in partnership with affordable housing providers, they could then build affordable homes, enabling delivery at pace.
- 4.25. **Alternative option:** We could seek to introduce further requirements around the delivery of affordable housing. To do this we would create a ‘first refusal’ right for local authorities or any affordable housing provider acting on their behalf to buy up to a set proportion of on-site units (on a square metre basis) at a discounted price, broadly equivalent to build costs. The proportion would be set nationally, and the developer would have discretion over which units were sold in this way. A threshold would be set for smaller sites, below which on-site delivery was not required, and cash payment could be made in lieu. Where on-site units were purchased, these could be used for affordable housing, or sold on (or back to the developer) to raise money to purchase affordable housing elsewhere. The local authority could use Infrastructure Levy funds, or other funds, in order to purchase units.

Questions

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.]

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.]

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.]

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.]

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

4.26. It is important that there is a strong link between where development occurs and where funding is spent. Currently, the Neighbourhood Share of the Community Infrastructure Levy ensures that up to 25 per cent of the levy is spent on priorities in the area that development occurred, with funding transferred to parish councils in parished areas. There are fewer restrictions on how this funding is spent, and we believe it provides an important incentive to local communities to allow development in their area. We therefore propose that under this approach the Neighbourhood Share would be kept, and we would be interested in ways to enhance community engagement around how these funds are used, with scope for digital innovation to promote engagement.

4.27. There is scope for even more flexibility around spending. We could also increase local authority flexibility, allowing them to spend receipts on their policy priorities, once core infrastructure obligations have been met. In addition to the provision of local infrastructure, including parks, open spaces, street trees and delivery or enhancement of community facilities, this could include improving services or reducing council tax. The balance of affordable housing and infrastructure may vary depending on a local authority's circumstances, but under this approach it may be necessary to consider ring-fencing a certain amount of Levy funding for affordable housing to ensure that affordable housing continues to be delivered on-site at current levels (or higher). There would also be opportunities to enhance digital engagement with communities as part of decision making around spending priorities. Alternatively, the permitted uses of the Levy could remain focused on infrastructure and affordable housing, as they are broadly are at present. Local authorities would continue to identify the right balance between these to meet local needs, as they do at present.

Question

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

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

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

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

Delivering change

How we move into the new system

- 5.1. It is important that in bringing forward reform to improve the operation of the planning system, we do not cause delays to development that is currently planned.
- 5.2. Subject to responses to this consultation, we will consider the arrangements for implementing these changes to minimise disruption to existing plans and development proposals and ensure a smooth transition. This includes making sure that recently approved plans, existing permissions and any associated planning obligations can continue to be implemented as intended; and that there are clear transitional arrangements for bringing forward new plans and development proposals as the new system begins to be implemented.
- 5.3. Nevertheless, we do want to make rapid progress toward this new planning system. We are already introducing a new Use Class Order, with associated permitted development rights, to make easier for businesses to change use without the need for planning permission to support our high streets and town centres bounce back following the COVID-19 pandemic. We have also created new permitted development rights to enable more new homes to be built on top of buildings and the demolition and rebuild of vacant buildings for housing, without the need for usual planning permission.
- 5.4. Today, we are also publishing a consultation on four shorter-term measures which will improve the immediate effectiveness of the current system:
 - changes to the standard method for assessing local housing need, which as well as being a proposal to change guidance in the short term has relevance to proposals for land supply reforms set out in this paper;
 - securing of First Homes, sold at a discount to market price for first time buyers, including key workers, through developer contributions in the short term until the transition to a new system;
 - temporarily lifting the small sites threshold, below which developers do not need to contribute to affordable housing, to up to 40 or 50 units;
 - extending the current Permission in Principle to major development so landowners and developers now have a fast route to secure the principle of development for housing on sites without having to work up detailed plans first;
- 5.5. This consultation document can be found at:
www.gov.uk/government/consultations/changes-to-the-current-planning-system
- 5.6. To provide better information to local communities, to promote competition amongst developers, and to assist SMEs and new entrants to the sector, we will consult on options for improving the data held on contractual arrangements used to control land. This can be found at: www.gov.uk/government/consultations/transparency-and-competition-a-call-for-evidence-on-data-on-land-control

Public assets and investment

- 5.7. As we fix our planning system, we also want to make better use of surplus land owned by the public sector, and to level up public investment in development to support renewal of towns and cities across the country, giving power to communities to shape its future use and bringing investment to places across the country. We will do this by:
- - **Ensuring investment in new public buildings supports renewal and regeneration of town and city centres across the country.** The Government Estate Strategy (GES), which was published in 2018, sets out how we will use the estate as an enabler to deliver better outcomes for the public, across all four nations of the UK. As part of this, the Government Hubs programme aims to transform the Government's office estate by accommodating departmental workforces in shared regional hubs and supporting office estate – creating strategic hubs across the UK in major city centre conurbations and in secondary towns and cities. We will continue to look at how the Government can ensure investment in its estate delivers wider benefits for places across the country.
 - **Exploring how disposal of publicly-owned land can support the SME and self-build sectors.** As announced by the Prime Minister last month in 'A New Deal for Britain', the Government will produce a new cross-government strategy on how land owned by the Government can be managed and released more effectively and put to better use. As part of this review, we will explore how we can support SME housebuilders, community land trusts and self-builders to identify public land opportunities.

Supporting innovation in delivery

- 5.8. As we bring forward planning reform, we also want to ensure we have in place the right delivery mechanisms, including development corporations. A good example that we are already progressing is development at Toton in the East Midlands, where we have announced our intention to support the establishment of a development corporation to maximise the area's international links and create tens of thousands of new homes and jobs. We want to see more schemes of this kind, backed by modern delivery models, around the country.
- 5.9. That is why we consulted at the end of last year on changes to the legislative framework for development corporations. This includes exploring whether we need to make changes to enable more flexible development corporation models that can drive housing, regeneration and employment. We are currently considering responses to the consultation and will respond to it shortly.

Making sure the system has the right people and skills

- 5.10. Local planning authorities remain at the heart of our ambitious reforms. We want to free up planners to focus on what they were trained for – creating great communities through world-class civic engagement and proactive plan-making, rather than reactive development management.
- 5.11. We recognise that local planning departments need to have the right people with the right skills, as well as the necessary resources, to implement these reforms

successfully. Many local authorities are delivering great services, and through the COVID-19 pandemic have been able to transform the way they work to a more digital and modern service. We look forward to seeing evaluations and lessons learned so that we can use this as a catalyst for modernisation of our planning services.

- 5.12. But we know that local authority planning departments are under great pressure – with spending per person on planning and development down 60 per cent and shortages of specialist skills such as design and ecology.¹⁹ And the technology in local planning authorities to support modern services is not there – whilst PropTech firms are developing new apps and other digital services that enable communities to engage with development in new ways, in few places can this be captured by the local authority. Instead, documents are submitted electronically, but not in the way of modern digital services such as those now supporting tax services.
- 5.13. The preparation of reformed Local Plans, development of new design codes, a major overhaul of development contributions, and a new streamlined approach to decision-making will have profound implications for how local planning authorities operate in future. They will need to have sufficient leadership, a strong cadre of professional planners and good access to technical expertise, as well as transformed systems which utilise the latest digital technology. But equally importantly, there must be a fundamental cultural change on how planning departments operate. They need to be more outward looking, proactively engaging with developers, businesses, architects and designers, as well as a wider cross-section of their local communities.
- 5.14. In particular, we envisage the focus of local planning authorities shifting towards the development of clear Local Plans and high-quality design codes which set the parameters for development – rather than making discretionary decisions based on vague policies. In doing so, there is a real opportunity for planners to redesign their individual roles and change perceptions of their profession. We will consider how best to support the planning profession in making this adjustment, in a way which supports culture change, improves recruitment and changes perceptions of planning.
- 5.15. In addition, other key players, including the Planning Inspectorate and statutory consultees, will have to transform the way they operate in response to these reforms, given their critical role supporting the preparation of Local Plans and decision-making. They too will need to be more responsive and outward looking, and have the necessary skills and resources to undertake their new roles.
- 5.16. We understand why many participants – not just local authorities, but statutory consultees and the Planning Inspectorate – are risk averse. Judicial review is expensive, and to lose a judicial review in the courts is bad for the reputation of either. And judicial reviews can be precedent setting, establishing a new interpretation of the law. We think the proposals set out in the document should remove the risk of judicial review substantially. Most judicial reviews are about imprecise and unclearly worded policies or law. Our plans for an overhaul of

¹⁹ Institute for Fiscal Studies (2019) “English local government funding: trends and challenges in 2019 and beyond”, <https://www.ifs.org.uk/uploads/English-local-government-funding-trends-and-challenges-in-2019-and-beyond-IFS-Report-166.pdf>

planning law to create simple and clear processes and for plans that set out clear requirements and standards will substantially remove the scope for ambiguity and therefore challenge.

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:

- 5.17. The cost of operating the new planning system should be principally funded by the beneficiaries of planning gain – landowners and developers – rather than the national or local taxpayer. Currently, the cost of development management activities by local planning authorities is to a large extent covered by planning fees, although the current fee structure means the cost of processing some applications can be significantly greater than their individual fee. However, the cost of preparing Local Plans and enforcement activities is now largely funded from the local planning authority's own resources.
- 5.18. Planning fees should continue to be set on a national basis and cover at least the full cost of processing the application type based on clear national benchmarking. This should involve the greater regulation of discretionary pre-application charging to ensure it is fair and proportionate.
- 5.19. If a new approach to development contributions is implemented, a small proportion of the income should be earmarked to local planning authorities to cover their overall planning costs, including the preparation and review of Local Plans and design codes and enforcement activities.
- 5.20. Reform should be accompanied by a deep dive regulatory review to identify and eliminate outdated regulations which increase costs for local planning authorities, especially to the decision-making process.
- 5.21. Some local planning activities should still be funded through general taxation given the public benefits from good planning, and time limited funding will be made available by the Government in line with the new burdens principle to support local planning authorities to transition to the new planning system as part of the next Spending Review.
- 5.22. Local planning authorities should be subject to a new performance framework which ensures continuous improvement across all planning functions from Local Plans to decision-making and enforcement – and enables early intervention if problems emerge with individual authorities.
- 5.23. The Planning Inspectorate and statutory consultees should become more self-financing through new charging mechanisms and be subject to new performance targets to improve their performance.
- 5.24. Workforce planning and skills development, including training, should be principally for the local government sector to lead on, working closely with Government, statutory consultees, planning consultancies and universities.
- 5.25. Reform should be accompanied by a significant enhancement in digital and geospatial capability and capacity across the planning sector to support high-quality new digital Local Plans and digitally enabled decision-making. We think the English

planning profession has the potential to become an international world-leader in digital planning, capable of exporting world class planning services around the world.

- 5.26. In developing this strategy, we recognise different local planning authorities face different pressures and issues, and it will be important to develop a resourcing and skills framework which works for all authorities across the country. We will work with local planning authorities, professional bodies and the wider planning sector to ensure views about implementation are considered. We would particularly want to see innovative solutions which can transform practice.
- 5.27. At the same time, we also want to enable a thriving PropTech sector. By unlocking the data that underpins the planning system so that it is open, we want to enable the PropTech sector to transform housing, land, and planning industries with innovative products that are interoperable with others. This will make use of process improvement insights and data to offer services for many different clients, including for improved public consultation opportunities for citizens and developers to identify sites on which to build, helping to reduce investment risks. We will continue to engage with the innovators and the UK PropTech sector through a Minister-led PropTech Innovation Council (announced in November 2019) to make the most of innovative new approaches to meet public policy objectives, help this emerging sector to boost productivity in the wider planning and housing sectors, and ensure government data and decisions support the sector's growth in the UK and internationally.

Stronger enforcement

- 5.28. As part of the implementation of our planning reforms, we want to see local planning authorities place more emphasis on the enforcement of planning standards and decisions. Planning enforcement activity is too often seen as the 'Cinderella' function of local planning services. But local communities want new development to meet required design and environmental standards, and robust enforcement action to be taken if planning rules are broken. As local planning authorities are freed from many planning requirements through our reforms, they will be able to focus more on enforcement across the planning system.

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

- 5.29. We will review and strengthen the existing planning enforcement powers and sanctions available to local planning authorities to ensure they support the new planning system. We will introduce more powers to address intentional unauthorised development, consider higher fines, and look to ways of supporting more enforcement activity.
- 5.30. This will include implementing our commitments from the Government's response to the consultation on unauthorised development and encampments, to strengthen national planning policy against intentional unauthorised development and ensure temporary stop notices are more effective. And will also consider what more can be done in cases where the Environment Agency's flood risk advice on planning applications is not followed.

What happens next

Implementing reform

- 6.1. The proposals in this paper apply to England only. Planning is devolved in Scotland, Wales and Northern Ireland.
- 6.2. Subject to the outcome of this consultation, we will seek to bring forward legislation and policy changes to implement our reforms. This consultation sets out our vision for the basis of a reformed planning system. We have not comprehensively covered every aspect of the system, and the detail of the proposals will need further development pending the outcome of this consultation. We will continue to develop the proposals as we gather feedback and views on them.
- 6.3. Our proposals for Local Plan reform, changes to developer contributions and development management would require primary legislation followed by secondary legislation. The proposals allow 30 months for new Local Plans to be in place so a new planning framework, so we would expect new Local Plans to be in place by the end of the Parliament.
- 6.4. We would implement any policy changes, including to set a new housing requirement, by updating the National Planning Policy Framework in line with the new legislation.

Responding to this consultation

EQUALITIES IMPACTS

- 6.5. We want all communities, families, groups and individuals to have a say in the future of the places where they live. For too long, planning and planning decisions have felt out of reach from too many people. The Government has heard how the combination of technical jargon and traditional models of community engagement discourages people from having their say on decisions. At the same time, it disproportionately encourages engagement from people from a narrow set of demographic groups – typically older, better off and white. We believe that the voices of those who may benefit most from new development are therefore often the quietest in the planning process.
- 6.6. We are committed to delivering wider engagement in planning, increasing the supply of land for development, and supporting inclusive and mixed communities. Some authorities and developers are pioneering new models of engagement that broaden this to different groups. We hope that the reforms set out in this consultation – to make the system more accessible, accountable, digital and transparent – will increase access and engagement for all groups up and down the country.
- 6.7. We would welcome views on the potential impact on the proposals raised in this consultation on people with protected characteristics and whether further reforms could broaden access to planning for people in diverse groups.

Question

APPENDIX 1

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?

About this consultation

This consultation document and consultation process have been planned to adhere to the Consultation Principles issued by the Cabinet Office.

Representative groups are asked to give a summary of the people and organisations they represent, and where relevant who else they have consulted in reaching their conclusions when they respond.

Information provided in response to this consultation, including personal data, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 2018 (DPA), the General Data Protection Regulation, and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, as a public authority, the Department is bound by the Freedom of Information Act and may therefore be obliged to disclose all or some of the information you provide. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Ministry of Housing, Communities and Local Government will process your personal data in accordance with the law and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties. A full privacy notice is included at Annex A.

Individual responses will not be acknowledged unless specifically requested.

Your opinions are valuable to us. Thank you for taking the time to read this document and respond.

Are you satisfied that this consultation has followed the Consultation Principles? If not or you have any other observations about how we can improve the process please contact us via the [complaints procedure](#).

Annex A

The following is to explain your rights and give you the information you are be entitled to under the data protection legislation.

These rights apply to your personal data (your name, address, and anything that could be used to identify you personally) not the content of your response to the consultation.

1. The identity of the data controller and contact details of our Data Protection Officer

The Ministry of Housing, Communities and Local Government (MHCLG) is the data controller. The Data Protection Officer can be contacted at dataprotection@communities.gov.uk

2. Why we are collecting your personal data

Your personal data is being collected as an essential part of the consultation process, so that we can contact you regarding your response and for statistical purposes. We may also use it to contact you about related matters.

3. Our legal basis for processing your personal data

Article 6(1)(e) of the General Data Protection Regulation 2016 (GDPR) provides that processing shall be lawful if processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller. Section 8(d) of the Data Protection Act 2018 further provides that this shall include processing of personal data that is necessary for the exercise of a function of the Crown, a Minister of the Crown or a government department.

The processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the Ministry of Housing, Communities and Local Government. The task is consulting on departmental policies or proposals or obtaining opinion data in order to develop good effective government policies in relation to planning.

4. With whom we will be sharing your personal data

We will not share your personal data with organisations outside of MHCLG without contacting you for your permission first.

5. For how long we will keep your personal data, or criteria used to determine the retention period.

Your personal data will be held for two years from the closure of the consultation.

6. Your rights, e.g. access, rectification, erasure

The data we are collecting is your personal data, and you have considerable say over what happens to it. You have the right:

- a. to see what data, we have about you
- b. to ask us to stop using your data, but keep it on record
- c. to ask to have all or some of your data deleted or corrected
- d. to lodge a complaint with the independent Information Commissioner (ICO) if you think we are not handling your data fairly or in accordance with the law. You can contact the ICO at <https://ico.org.uk/> , or telephone 0303 123 1113.

7. Storage of your personal data

The Data you provide directly will be stored by MHCLG's appointed third-party on their servers. We have taken all necessary precautions to ensure that your rights in terms of data protection will not be compromised by this.

If you submit information to this consultation using our third-party survey provider, it will be moved to our secure government IT systems at a date following the consultation publication date.

8. Your personal data will not be used for any automated decision making.

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APPENDIX 2

DRAFT RESPONSES TO 'PLANNING FOR THE FUTURE'

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

Complex. Difficult. Arbitrary.

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

Yes. Tendring District Council is a Local Planning Authority.

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.

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]

By all of the suggested media.

**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]**

1) The design of new homes and places: Building a much better standard of home that is beautiful to look at, a delight to live in and a pleasure to be able to own and afford.

2) Supporting the local economy: Being able to support local businesses to expand and diversify whilst attracting inward investment and maximising the economic potential of tourism and the district's many assets.

3) More and better local infrastructure: Ensuring that infrastructure, particularly social infrastructure for health and education, is planned alongside new housing and delivered in a timely manner.

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

Yes. It is agreed that Local Plans should be simplified, not only in the interest of boosting development, but also in the interest of reducing delay and cost to the tax-payer and providing certainty to the community over the likely pattern of future development in their area.

However, in simplifying Local Plans, plan-making must remain a democratic process and the local authority must be allowed full discretion over which areas are shown within the three new categories (growth areas, renewal areas and areas for protection) and any sub-categories within. They should be allowed to progress their plan to adoption subject to meeting basic requirements of a much simplified soundness or sustainability test (see response to Question 7a).

For a simplified plan-making process to succeed, the ability for third-party developers and landowners to challenge and delay the plan-making process and influence the content of Local Plans should be limited to the local authority's consideration of any representations received during the consultation periods. There should be a presumption that a Local Plan is 'sound' if it meets the requirements of the simplified tests and local authorities should not be forced into a position where they have to temper or go against their communities' wishes and aspirations in fear of an expensive and complex challenge from a landowner or developer.

The ability for third-party developers and landowners to appeal against the refusal of planning permission should also be reviewed. Departures from the Local Plan should only be granted by the local planning authority where it believes that development would be in the best interests of their area. Departures from the Local Plan should not be determined or (ideally) even entertained through an appeals process. The development

industry's focus should be on delivering the homes and other development planned for through the Local Plan and not on seeking to disrupt, circumvent or overly influence the plan-making process. The 'threat' of appeal currently makes it very difficult for a local authority to make decisions in the best interest of its communities, even when trying to follow a plan-led approach.

If an appeals process is retained within the system, consideration should be given to reviewing the power given to Planning Inspectors and limiting it to the ability to 'quash' a local authority decision (in a similar way to the Courts in respect of a legal challenge) and referring it back to the authority for re-determination, highlighting any areas of concern. The current ability for a single unelected official acting on behalf of the Secretary of State to completely reverse the decision of a local authority is fundamentally undemocratic and substantially undermines communities' confidence in the planning system, local government and democracy.

Question 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.]

Yes. It is agreed that certain types of 'Development Management' policies could be standardised, for example in relation to internal space, private amenity space and energy efficiency.

However, such an approach can only be supported if the government sets national policies that strive for the highest standard of new development as a minimum in all parts of the country – with no exceptions allowed. If development cannot comply with such standards, they should be rejected or deemed unlawful with no discretion or right of appeal.

There are too many examples of times when local authorities feel powerless to reject development proposals that appear to meet only basic standards of design and quality over fear of an expensive or complex appeal or challenge.

If seeking to achieve such high standards of quality leads to concerns over viability in lower-value locations, it is the expectations of landowners and developers in respect of profit that should adjust – not the community's expectations of quality. Authorities with aspirations to improve the quality of life for their existing and future residents should no longer have poor

quality or sub-standard development forced upon them because of weaknesses in the housing market and the inability to deliver on landowner and developer's, often over-inflated financial expectations.

If the government is serious about 'levelling up' society and the economy, it should be prepared to 'lay down the law' for achieving higher standards, particularly for housebuilding where standards of quality and technological innovation lags woefully behind that of other industries, for example the car industry where the consumer demands, and can expect, a certain level of quality, safety and technology as standard.

In areas of lower value housing where economic viability is a genuine concern and where reasonable financial expectations for landowner and developer expectations genuinely cannot be met, there could be some form of government grant or subsidy that could be applied for by the developer. Local authorities should not lower their expectations of quality over fear about not meeting their housing targets.

Under a simplified policy framework, local authorities should still retain the ability to include site specific or area specific policies in Local Plans or Neighbourhood Plans aimed at achieving local aspirations or addressing particular local concerns.

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.]

Yes. The tests of soundness for a Local Plan should be substantially simplified to enable plan-making authorities to proceed, with confidence, with a plan that best fits the needs and demands of their area and the aspirations and concerns of local communities without the fear of a lengthy and costly examination, rejection or challenge from third-party landowners and developers.

A simplified soundness or sustainability test could essentially be limited to the following:

1. That the local planning authority can give reasoned justification for the decisions it has taken in defining growth, renewal or protected areas and presenting area-specific planning policies. The justification will be as much for the scrutiny of the local electorate

in judging the performance of the Council as for the judgement of any government-appointed independent Inspector.

2. That the plan identifies sufficient land, with a reasonable prospect of delivery, within its growth and renewal areas to meet the established housing and employment land requirements and any associated infrastructure for the plan period perhaps with a standard 'buffer' of say 10 or 20% - thus avoiding the debates repeated throughout the country about what is a 'reasonable level of flexibility'.
3. That the plan has been the subject of the necessary consultation and engagement efforts and that the local planning authority can demonstrate that it has given reasonable consideration to any representations submitted, in settling on its final plan.
4. That the plan does not directly contradict and therefore scupper the requirements of National Planning Policy.
5. That the plan does not jeopardise the plans of another plan-making authority – requiring any objection from another authority to be given particular consideration by an examining Inspector.
6. That, for any major growth sites where outline permission is to be granted in principle in line with the government's proposals, the necessary level of assessment that would be expected to grant outline planning permission has been undertaken – e.g. a landscape and visual impact assessment, a flood risk assessment, a phase 1 habitats survey etc.

A Planning Inspector's role in the process should only be to ensure that the proper process has been followed and that the simplified tests are met – advising the authority of any additional work that might be required to address any gaps in the process. This Council believes it would be fundamental undemocratic however for an unelected Planning Inspector to retain the power to reject or re-write an authority's Local Plan in any new system.

Once the plan is adopted it should be assumed to be sound until such time that it is superseded by a new plan, i.e. within the suggested five year period – irrespective of any changes in National Planning Policy, which can be taken into account at the subsequent review. This will avoid the need for the local authority or an appeals Inspector to have to consider the ‘weight’ to be given to different sets of plans – often at great complexity and unnecessary cost.

Shortfalls in housing delivery that accumulate during the period of the Local Plan should be addressed only through the compulsory five-yearly review of the Local Plan and not through the submission of speculative applications and planning by appeal. Any other system would not be genuinely plan-led and gives landowners and developers too much influence to circumvent local democracy.

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

The current duty to cooperate has proven to be complex, ineffective and burdensome in the absence of any overarching regional or other strategic cross-border plan. Authorities could be encouraged (but not compelled) to prepare joint plans where they have shared aspirations for cross-boundary growth or a common approach to growth. Otherwise, as suggested above in response to Question 7(a), the simplified test of soundness or sustainability could simply require that proposals in the Local Plan do not jeopardise the plans of another plan-making authority – with the burden placed on authorities to highlight their concerns through representations during the appropriate consultation exercises.

Questions 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.]

No. Whilst there is logic in seeking to apply a standard method, a ‘one-size-fits-all’ solution does not recognise the fact that in some locations there are genuine exceptional reasons for planning for higher or lower amounts of housing development than a standard formula might generate.

Tendring is a genuine example of where a standard methodology does not work because of recognised errors within the official household projections resulting from 'Unattributable Population Change' (UPC) which result in substantially over-inflated, inconceivably contentious and undeliverable expectations for new housing.

In the recent Local Plan examination for the North Essex Authorities (including Tendring, Colchester and Braintree), the examining Inspector recognised and accepted the exceptional issues around UPC and was able to endorse a departure from the official household projections in establishing the housing requirements for Tendring. Under a purely standard method, such exceptional matters would not be recognised and an authority like Tendring could be forced to plan for double the amount to housing that is required, leading to substantial levels of local objection (to which the democratically elected authority would have no reasoned response), and a strong likelihood that the over-inflated and undeliverable housing target would never be met.

That said, this authority has had to invest considerable time and taxpayers money over many years to argue, repeatedly, for its departure from the official household projections in defence of the Local Plan and in numerous individual planning appeals. In a streamlined planning system, this cannot be allowed to continue. Therefore, this authority's suggestion would be a system of setting housing requirements that is initially based on a standard method but which allows one opportunity for a local authority to argue for an alternative figure, through a dedicated examination process, before it embarks on the full exercise of preparing or reviewing its Local Plan.

Essentially, the approach would involve the following:

Stage 1: Government issues local authority with its proposed housing target, as generated through a standard method.

Stage 2: Local authority given a set period of time to indicate whether it 1) accepts the figure or 2) wishes to argue for a lower figure due to specific local issues – setting out the figure it wishes to argue for.

Stage 3: For authorities that formally indicate their wish to argue for an alternative figure, an Inspector is appointed to carry out a focussed examination on that issue.

Stage 4: Inspector issues a decision on housing target for the authority having considered the evidence tabled as part of the single-issue examination.

Stage 5: Local authority accepts the Inspector's decision and proceeds to prepare or review its Local Plan with the need to identify sufficient land to meet that requirement.

This process would enable arguments around housing figures to be aired 'once and for all' before too much work is carried out on a potentially abortive or unsound Local Plan. It enables authorities the right to highlight practical concerns about any figures generated through a standard method, otherwise for the majority of authorities, they can proceed on the basis of the government-generated figure without the cost and delay associated with examining this element of the Local Plan.

In line with the above approach, it is suggested that if the housing delivery test and five-year supply calculation are to remain as an element of the planning system, then delivery or supply should be measured against the figure in the latest adopted Local Plan until such time that it is superseded through the review process. Otherwise, the publication of updated housing projections will lead to a constant 'moving target' which brings about uncertainty, complication and avoidable and costly debate at individual appeals.

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.]

Yes. Affordability and the existing size of the urban areas or number of dwellings in an authority are reasonable factors to include within any standard method of calculating housing requirements. Such an approach will help to ensure that authorities are expected to deliver a proportionate, as opposed to a disproportionate, level of housing development.

It should however be noted that calculations of 'affordability' can sometimes lead to higher expectations for housing development in areas where deprivation, such as lower-incomes and unemployment, are particular issues and where, due to lower house prices, housebuilding can face viability issues with low residual land values. Because of this, simply 'allocating more land' or seeking to 'increase the supply of land with

planning permission' will not result in increased house-building or a solution to local housing needs. If anything, it can result in 'diluting the offer' or 'flooding the market' and developers giving priority to locations where housing can deliver the strongest return, rather than locations where the housing is most needed – bringing frustration to local communities in the process, particularly when housing developments are allowed on appeal on housing supply arguments, but left undelivered for many years.

For the above reason, this authority believes it is important that 1) there is an opportunity for housing figures generated through a standard method to be challenged and examined; 2) that housing supply and delivery is judged against Local Plan requirements only; and 3) calculations of affordability do not generate housing targets that are disproportionate and undeliverable.

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.]

Yes. If a site is allocated in the Local Plan it will have already been deemed, by the local authority, to be acceptable for development in principle and developers should be able to proceed towards the approval of details with reasonable confidence that the principle of development is accepted and the authority will work with them towards approval. Outline permission in principle should however only apply where the Local Plan has been fully adopted and must comply with any parameters set out by the local authority for the area in question, for example on development density. .

In terms of the three suggested means of granting detailed consent, (a new-style 'reserved matters' application, a Local Development Order (LDO) or Development Consent Order under the Nationally Significant Infrastructure Projects regime), all are potentially workable but it should be the local authority that determines which route is applicable to different sites in their area.

This Council is however very concerned about the extent of changes being made to permitted development rights and the potential implications – in particular the uncontrollable conversion of office blocks and other

buildings to poor quality apartments, flats, bedsits and HMOs. Relaxation or tightening of permitted development rights should be delegated to local authorities and supported by the government where the authority can demonstrate their reasons – for example to tackle concerns over concentration of HMOs in town centres.

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.]

No. Whereas, for growth areas, the local authority will have already given great consideration to the nature and scale of development that would be acceptable, the potential scope of development proposals that might come forward in either renewal areas or protected areas could be extremely wide and there ought to be a greater level of control, more in line with the current system, to enable the authority to consider both the principle and detail of any proposals that comes forward.

9(c). Do you think there is a case for allowing new settlements to be brought forward under the Nationally Significant Infrastructure Projects regime? [Yes / No / Not sure. Please provide supporting statement.]

No. New settlements should only be brought forward either by a local authority through the Local Plan process unless that authority has specific reasons or a specific desire to delegate such decisions to government. To instigate the planning or delivery of a new settlement through the Nationally Significant Infrastructure Projects regime without the local authority's full backing would be very undemocratic.

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

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

No. Some elements of the government proposals appear sensible, but there are fundamental concerns about others.

Having greater digitisation of the application process, utilising modular software and having shorter and more standardised applications appears

sensible in principle however applications can vary considerably in their nature and complexity and local authorities need to be presented with sufficient information to be confident in decision making.

Standardising technical information, planning notices and planning conditions again could help to streamline the planning process, but authorities should not be denied the opportunity to also impose supplementary bespoke conditions to address particular local concerns that would not be sufficiently addressed through one of the standard conditions.

Authorities do tend to delegate a large proportion of planning decisions to their Planning Officers – particularly when it comes to smaller developments or reserved matters applications. However, authorities should not be denied the right to refer applications to elected Councillors for a decision where, for good reasons, a democratic decision is the best course of action.

The suggestion of sticking to statutory time limits or otherwise refunding the application fee is understandable as an incentive for authorities to determine applications in a timely manner. However, this will only be a reasonable course of action if other measures aimed at streamlining the system are successful. The potential consequence of requiring applications to be determined in the statutory timeframe could lead to an increase in refused applications that might have otherwise been approved if a short extension of time were allowed. This could have implications for the number of appeals submitted to the Planning Inspectorate – the opposite of what the government is hoping for.

We strongly disagree with the suggestion that applications will be entitled to an automatic rebate of application fees where an appeal is allowed following a Planning Committee decision to refuse permission. More often than not, a Committee decision to refuse applications involves a balanced judgement of complex matters and material considerations with the best interests of the community at heart. If the Planning Inspectorate is given the power to not only overturn democratic decisions but also 'threaten' elected Councillors with the removal of fees, we fear that the public's trust in the planning system and democracy will be seriously undermined.

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

Yes. However, these new requirements should only apply to future Local Plans and future reviews of Local Plans and not to authorities that are already part way through the process of preparing their plans – particularly those, such as Tendring, that have advanced to the later stages of the process under transitional arrangements.

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.]

Yes, in principle – however we think the government has underestimated some of the difficulties that would be associated with such a quick turnaround.

Under the current system, the preparation of a Local Plan takes far too long, and in some cases, is seemingly endless. However, authorities will only be able to comply with such a tight statutory timescale if the requirements of the plan-making process including the burden of evidence are reduced, the tests for examination are simplified and the ability for third parties to ‘de-rail’ the process are limited. Instead, the proposed changes to the plan-making process appear to place a much greater emphasis on public consultation or community engagement which, whilst admirable and supported in principle, will give rise to significant and unpredictable challenges that will vary hugely from authority to authority.

Stage 1 gives six months for the local authority to invite suggestions for areas to include in the three categories of land i.e growth areas, renewal areas and areas for protection. Whilst the idea of undertaking comprehensive public involvement at this stage of the process is welcomed, it can be predicted that there will be a strong push, from the public, for many areas to be ‘protected’ and an equally strong push from landowners and the development industry for areas to be designated for growth or renewal. The local authority will ultimately be ‘stuck in the middle’ of this debate and, across a variety of locations, will have to rule in favour of the community, or in favour of the landowner/developer when it comes to designating land in the plan.

Stage 2 then gives 12 months for the preparation of the Local Plan and any necessary evidence. For this timescale to work, the evidence will need to be proportionate and not subjected to current levels of scrutiny and challenge when it comes to the examination stage of the process. The government must also appreciate that the period for plan-making must also include the time needed for democratic decision-making which will be in the public eye, open to significant scrutiny, criticism and lobbying. The experience of different local authorities will ultimately vary significantly depending on relevant local issues, political pressures and geographical differences of opinion.

Stage 3 then gives six weeks for the local authority to submit its Local Plan to the Secretary of State and invite comments from the public, again following a comprehensive approach to public engagement. However, it is difficult to see how meaningful engagement can be carried out if there is no subsequent stage of the process by which the local authority can change its mind on certain issues, or take on board any local concerns. At this stage of the process, responsibility for the plan transfers to an unelected Planning Inspector with limited knowledge of the area.

Stage 4 of the process gives nine months for the Inspector to examine the plan. However, giving all people who submitted comments the 'right to be heard' could raise people's expectations over the amount of influence they could have on the plan. Ultimately, an Inspector is going to disappoint a lot of people if they choose to limit their right to be heard to just written submissions or if they are seen to ignore public comments altogether. Ultimately it will be the local authority, not the Inspector, that is criticised by local people if they feel that their views have not been given proper consideration.

Stage 5 would then involve the finalisation of the plan in six weeks, which seems possible so long as the earlier stages of the process do not reveal any overly complex issues.

A smooth transition from the current system to the new is extremely important given the stages that some authorities have already reached in preparing their Local Plans. Tendring is an authority that has already submitted its Local Plan to the Secretary of State for examination and is half-way through the examination process. It is suggested that an authority like Tendring would have 42 months (three and a half years) from either the date of the new legislation or the adoption of the most recent plan (whichever is later) to put a new-style plan in place. Thereafter, Local

Plans would need to be reviewed within five years of adoption, as is the current arrangement.

We question why an authority like Tendring, with a submitted plan expected to be adopted in 2021 cannot benefit from the full five year period to undertake its next review in line with the new system – particularly given all the hard work that has gone into the plan and the strongly-fought arguments about housing numbers and the locations for development.

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

Yes. With a dramatically simplified Local Plan and a streamlined process for determining applications, Neighbourhood Plans might offer the only real opportunity for communities to have a meaningful say in the way their area is planned.

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?

Yes. It is suggested that the local planning authority acts as the examiner for Neighbourhood Plans as opposed to a government appointed Inspector. The authority's role in examining a Neighbourhood Plan should be to simply check that it does not contradict or jeopardise the Local Plan. The Neighbourhood Planning body should be able to work with the local authority to share and utilise its technology and software to align with the government's objectives around digital tools.

The Neighbourhood Planning process could be the ultimate opportunity for communities to express their views about design preferences to inform the content of a Neighbourhood Plan or a design code.

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.]

Yes. Although the government has placed a significant emphasis on the need to speed up the planning process, this authority can point to numerous examples of developments that have obtained planning permission in a timely manner but have either been left unimplemented, stalled or progressed much slower than originally indicated. This has made it very difficult for the Council to maintain its five-year supply, despite being able to identify more than sufficient land to meet its requirements – with some developers clearly using the lack of progress on certain sites (including their own) to argue for planning permissions on other sites.

Measures to incentivise building could include shorter time limits for the commencement of development (e.g. two years instead of three); and a presumption, through the NPPF, that any residential development granted on appeal on housing supply grounds can be considered 'deliverable' within five years (to avoid land banking as a means of constraining supply).

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]

Indifferent. Developments by some developers in some locations have been excellent, capturing the Council's expectations of quality and respecting and enhancing their surroundings. Other examples have been uninspiring, 'bog-standard' ubiquitous schemes that lack vision but are 'not bad enough' for the authority to be confident in seeking to reject permission. We tend to find that local developers pay more attention to detail and quality than some of the regional volume housebuilders.

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]

Energy efficiency of new buildings. This is not just for the sake of the environment, but also as a means of providing local employment for existing a new firms specialising in making new and existing properties

more energy efficient and reducing residents household bills – a particular issue for pensioners.

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.]

Yes, in principle. However, in the context of government wanting to speed up the planning system it will be important that the process of putting local design guides and design codes in place does not, in itself, become an overly bureaucratic, divisive and lengthy task that could lead to a blockage in delivery and a shortage of resources in the later stages of the planning process. Neither should design codes stifle innovation or visionary approaches to development.

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.]

Not sure. Whilst the idea of each local authority having a chief officer for design and place-making sounds desirable, there is a risk that one unelected official with an affiliation to a national professional body might have too much influence on matters of design and appearance which, ultimately, are subjective matters in which the community, and elected officials, should have a say. See also response to Question 7.

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.]

Yes. Quality of design should be a high priority of government and local authorities. There should be no place for poor design anywhere in the country and the development industry also needs to play a stronger role in improving standards, like the car industry has.

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

In principle, yes – however it is difficult to see how this would work in practice when, ultimately, beauty is in the eye of the beholder and is a matter of great subjectivity to which different stakeholders will offer different views. .

Updating the NPPF to indicate that schemes complying with local design guides and codes should receive swift approval seems sensible.

Requiring a masterplan and site-specific design code as a condition of permission in principle in Growth areas also seems sensible, so long it is the local authority to leads and has the final say over their content. If the preparation of a masterplan and design code is going to lead to lengthy disagreements between stakeholders and an expensive and complex examination process of its own to sort those disagreements out, then it will not help to streamline the planning system.

Changing the nature of permitted development to allow developments of popular and replicable forms of development to be approved easily and quickly again seems desirable in principle, so long as the creation of the design codes that would apply does not, in itself, become an overly bureaucratic, divisive and lengthy task.

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]

More or better infrastructure and the design of new buildings.

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.]

Yes, in principle. Although the focus of the levy should be on delivering infrastructure with affordable housing best secured by way of legal agreement.

However, whilst the principle of a standardised approach is understood as a means to simplify the system, charging a levy as a fixed-proportion of development value will result in a large income for authorities in areas with high property values and significantly lower income for authorities in areas with lower property values. This is despite the fact that the need for infrastructure to meet the needs of a growing population will generally be the same, irrespective of property values. There would need to be some way of ensuring that lower value areas are not penalised because their levy income is not sufficient to deliver the infrastructure expected by their communities.

The ability to fund and deliver necessary infrastructure could therefore be a factor taken into account when setting an authority's housing target. Otherwise there will need to be some form of re-distribution of the levy or other public subsidy for lower value areas.

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]

A nationally set levy would no doubt simplify the process for developers.

However, as explained above, a nationally set levy, if a fixed proportion of development value, would fail to recognise the significant variance in property sales values between different parts of the country. Therefore authorities with high property prices would be able to secure significantly higher sums of money than authorities with lower property prices, irrespective of the need for or cost of infrastructure associated with those developments.

Because of this, the only way in which such a system could be effective is if all revenue secured through the levy were collected by central government and re-distributed to local authorities in proportion to their infrastructure costs – which would mean some authorities would be relinquishing control of the funding secured and the levy would end up being collected much in the same way as corporation tax or business rates.

An alternative would be for the levy to be set locally and all the moneys retained locally. However, in lower value areas where there is likely to be a funding gap, there should either be a mechanism to lower the amount of housing that is expected to be built, or some form of subsidy from government to pay for the infrastructure that cannot be delivered through the levy.

22(c). Should the Infrastructure Levy aim to capture the same amount of value overall, or more value, to support greater investment in infrastructure, affordable housing and local communities? [Same amount overall / More value / Less value / Not sure. Please provide supporting statement.]

Depending on what the objectives of a particular local authority is, there could be a mechanism by which more value could be captured. However, this would in some ways defeat the object of introducing a simplified and standardised approach and could make some developments unviable if the levy is not set carefully.

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.]

Yes. It might provide the only means by which some infrastructure can be delivered ahead of the development – thus allowing the development itself to proceed smoothly.

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.]

Yes. Developments permitted in this way will still have an impact on infrastructure and so it will be important that they contribute in the same way that developments requiring planning permission.

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.]

Yes. It will be important to ensure any new arrangements in relation to Infrastructure Levy do not result in lower levels of affordable housing being delivered to that currently achieved through s106 legal agreements. Otherwise local authorities will struggle to meet their legal duties around meeting housing needs.

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.]

Not sure. For the purposes of securing affordable housing on site, the current s106 legal agreements are fairly robust and enable properties to be transferred to a nominated body at a discounted rate. A right to purchase at discounted rates is essentially what the s106 system already provides, so it is difficult to see how abolishing s106 for the purpose of securing affordable housing will be of benefit. We would be concerned that a levy approach without any legal safeguards could be open to abuse.

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.]

Yes. Otherwise there seems little point in abolishing s106 legal agreements for affordable housing which at least ensure that properties must be transferred to the nominated body within set timescales, reducing the risk of over-payment.

24(d). If an in-kind delivery approach is taken, are there additional steps that would need to be taken to support affordable housing quality? [Yes / No / Not sure. Please provide supporting statement.]

No. If the government is serious about improving design, quality and energy efficiency, then all dwellings whether affordable or market homes, should deliver high standards, as a minimum. See answer to question 6.

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

No. If the levy is designed to pay for infrastructure, it should be spent on infrastructure and should mitigate the impacts of the development from which the payments have come. If restrictions are eased, local authorities will need to be disciplined in their administration of the Infrastructure Levy as they will ultimately be held accountable, by their communities, for how the money is spent.

25(a). If yes, should an affordable housing ring-fence' be developed? [Yes / No / Not sure. Please provide supporting statement.]

If s106 agreements are abolished and there were fewer restrictions on how the levy is spent, ring-fencing for affordable housing would be necessary – but not if it invokes the right to buy. Affordable housing needs to remain affordable if it is expected to provide for the needs of people with lower incomes.

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

It is suggested that all new properties should be DDA compliant, without exception. The development industry must adapt to improved standards, just like the car industry has.

Key Decision Required:	Yes	In the Forward Plan:	Yes
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CABINET

9 OCTOBER 2020

REPORT OF THE HOUSING PORTFOLIO HOLDER

A.2 HOUSING ACQUISITIONS & DEVELOPMENT POLICY

(Report prepared by Tim Clarke & Peter Russell)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To recommend a Housing Acquisitions & Development Policy for adoption by the Council.

EXECUTIVE SUMMARY

The Council's Housing Strategy 2020-2025 "*Delivering Homes to Meet the Needs of Local People*" was adopted by Full Council on 15th September 2020.

One of the key priorities in the strategy is to deliver a Housing Acquisitions and Development Policy to provide a pathway towards the delivery of additional council housing in the district. In September 2019, Cabinet agreed an aspiration to deliver up to 200 additional council homes and the policy sets out how and where these homes will be delivered.

RECOMMENDATION(S)

It is recommended that Cabinet:

- **Adopts the Housing Acquisitions and Development Policy; and,**
- **Delegates authority to the Housing Portfolio Holder to make updates or amendments to the policy, if required, after it is adopted.**

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

The decisions will contribute to the following priorities in the Corporate Plan 2020-2024:

Community Leadership Through Partnerships

The policy will contribute to the overall aims of the Housing Strategy by enabling the delivery of additional council housing in the district and will help to deliver jobs and infrastructure as well as tackling homelessness and improving the lives of households in need of high quality, sustainable, affordable housing

Building Sustainable Communities for the Future

The policy will play a key role in enabling and delivering additional council housing. Good quality housing contributes to positive health and wellbeing that are the key foundations of a sustainable community.

FINANCE, OTHER RESOURCES AND RISK

Finance and other resources

Following the relaxation of borrowing headroom arrangements for the Housing Revenue Account (HRA) (these were the capping rules put in place following the changes to the HRA subsidy system) Councils are now in a position to, in theory, borrow above their previously capped limit.

At present the council's HRA borrowing headroom is around £20m if the government's business plan methodology is applied and whilst this methodology is fairly conservative in terms of its risk profile, straying too far from that risk profile would not be prudent given the recent record of government intervention in the Council's ability to raise income from rents to repay any loans.

As Members will appreciate, the Council would not borrow capital to acquire existing property or to build out any specific scheme until such time as it was required and as such detailed financial breakdowns would be brought forward as and when decisions are sought on specific building projects as interest rates, income profiles, etc. will change over time as will potentially the source and terms of such loans.

This means that individual reports will come to Members for decision on any proposal to build or acquire homes in any location in advance of any new development or acquisitions coming forward. However, based on prevailing Public Works Loan Board (PWLB) interest rates, development land already owned by the Council and stable build costs the construction of 200 new homes at a build out rate averaged at 20 per year is achievable.

One of the complicating factors in considering overall viability is the Right to Buy. Whilst the application of the "cost floor" (over the first 15 years after the build the Council can recover the capital cost of building the property) does protect the Council to some extent, if there are no changes to the current discount levels or other scheme parameters the Council will lose capital on every new unit if it is purchased.

Risk

The policy sets out criteria that must be applied before a decision is made to develop or acquire homes and sets out how the Council will manage and mitigate risks. Right to buy levels and discounts are variables over which we have little control and so the best we can do is to make estimates of sales based on historic rates and projects of house prices utilising analysts such as Savills.

Members should note that the Government is currently consulting on reforms to the planning system which, if enacted, may impede the Council's ability to purchase discounted homes for rent through Section 106 agreements.

LEGAL

The Council has the necessary powers which enable it to build new Council housing and the powers to sell a limited number, currently up to five per year. Part A of the General Housing Consents 2013 provides consent for the disposal of land held for housing purposes within the HA 1985. Under A3.3.1 a local authority may dispose of an unoccupied dwelling house to a person who intends to use it as their only or principal home subject to paragraphs 3.3.2 to 3.3.4

Where a person (a) is not a secure tenant ... the local authority may dispose of the unoccupied dwelling house at a price which is not less than an amount equal to the purchase price defined in section 126 (right to buy purchase price) to which the minimum discount, as provided for by section 129, has been applied.

The commentary to the General Consent provides some further explanation for each part and states at clause 3:

“paragraph 3.3 permits local authorities to dispose of dwellings at discounts equivalent to the Right to Buy discount to existing council tenants and others who, the local authority has decided, need help accessing home ownership in the area (for example, key workers or ex-military personnel, although that is for the local authority to decide).”

If the Council has to acquire land to build new homes Section 17 of the HA 1985 (the 1985 Act) provides the principal power for acquisition of land for housing purposes (as defined in Section 9 of the 1985 Act) including land as a site for the erection of houses.

Section 9 of the Housing Act 1985 states a housing authority may provide accommodation for housing purposes by with erecting or converting buildings into houses, on land acquired by them or by acquiring houses..

Section 12 Local Government Act 2003 empowers the Council to invest if the purpose is relevant to its functions and consistent with the prudent management of its financial affairs.

OTHER IMPLICATIONS

Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.

Crime and Disorder/Equality and Diversity/Health Inequalities/Consultation/Public Engagement

Crime and Disorder

Consideration has been given to the Crime and Disorder Act 1998. There are no direct implications.

Equality and Diversity

The policy, at Section 1.4, contains a statement on equality and diversity

Health Inequalities

The delivery of new, affordable, sustainable homes will help to address health inequalities in the District.

Ward

All wards are covered by the policy

PART 3 – SUPPORTING INFORMATION

Background

The Council adopted its Housing Strategy 2020-2025 in September 2020 and one of the key priorities is to deliver a Housing Acquisitions & Development Policy to facilitate the delivery of additional council housing in the district. The policy sets out the demand for housing in the district, the various mechanisms through which the Council can develop or acquire homes and where the Council intends to deliver these homes. The policy sets out the criteria that must be followed before deciding to develop or acquire homes and the risks involved and how these risks can be mitigated.

The Council has traditionally delivered housing through its Housing Revenue Account (HRA) and it is the largest provider of social housing in the District. The Council has and can deliver Council Housing via the Housing Revenue Account and there are a multitude of mechanisms which can be deployed to develop and acquire homes but homes delivered through the HRA or via the General Fund will be subject to the provisions of the Housing Act 1985 so tenants will have the various rights (such as the Right to Buy) and obligations enshrined in that Act.

One of the key considerations and costs for any new build property is land and in particular the cost and location of such land. Members will be aware that as one element of the Jaywick Sands housing led renewal process, the Council purchased approximately 30Ha of mainly greenfield land within the Jaywick sands settlement. Clearly, delivering the Council's ambition to deliver 100 new homes for local people in Jaywick Sands can be accommodated, notwithstanding technical and logistical challenges, on this land. However, the Council does hold within the Housing Revenue Account parcels of land across the district, many of which are suitable for development and will provide opportunities for residents to be accommodated in areas across the district where there is currently no housing available. Many of these sites will provide challenges to bring them forward for development.

Whilst focusing on the Council's ambition to deliver two hundred additional homes it would be useful to also identify that the Council will also bring into its stock a further approximately 180 new build homes when these are gifted to the Council under historic s106 agreements. These gifted homes are in addition to the aspiration to deliver 200 Council homes. Members may recall that in response to a very low take up by Private Registered Providers of affordable housing units which were offered as part of s106 agreements (this followed following changes to rent controls in social housing), the Council developed a unique gifting solution to bring forward affordable housing units but without placing an unsustainable financial burden on the Council. The gifting solution was a time bound arrangement until financial circumstances changed and has now been withdrawn from use other than in exceptional circumstances.

The Council has been recognised as "Housing Business Ready" following an audit by the Housing and Finance Institute and it is essential to build upon the good foundations already established within the Council to influence the market and deliver new homes ourselves.

The proposed Acquisitions and Development Policy recognises that building new homes is only one way in which the Council can increase its housing stock. Given the need to deliver homes at relative pace it is likely to some existing homes will be bought from the private market or other social/affordable housing providers. The Council will therefore focus efforts on a number of delivery methods in order to maximise delivery.

The Policy does not make any changes to the existing constitutional arrangements around property acquisition and the Property Dealing Procedure although changes may be considered in future under a separate report if it is believed they will be beneficial.

FURTHER HEADINGS RELEVANT TO THE REPORT
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None

BACKGROUND PAPERS FOR THE DECISION

None

APPENDICES

Housing Acquisitions & Development Policy

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A.2 APPENDIX

HOUSING ACQUISITIONS & DEVELOPMENT POLICY TENDRING DISTRICT COUNCIL

1. POLICY OVERVIEW
 - 1.1 INTRODUCTION
 - 1.2 AIMS OF THIS POLICY
 - 1.3 LINKS TO THE COUNCIL'S CORPORATE AIMS
 - 1.4 EQUALITY & DIVERSITY
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2. ACQUISITIONS AND DEVELOPMENT POLICY DETAIL
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 - 3.1 ACQUIRING OPEN MARKET HOMES
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 - 3.5 LAND ACQUISITION FOR DEVELOPMENT
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4. WHAT WILL BE DELIVERED AND WHERE
 - 4.1 ACQUISITION CRITERIA FOR EXISTING HOMES
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5. FINANCIAL AND LEGAL CONSIDERATIONS
6. MANAGEMENT OF RISKS
7. LINKS TO OTHER CORPORATE STRATEGIES AND POLICIES
8. MONITORING OF THE PERFORMANC/EFFECTIVENESS OF THIS POLICY
9. SPECIAL CONDITIONS RELATING TO DEVELOPMENT IN JAYWICK SANDS

ANNEX A – WHERE WILL THE HOMES BE DELIVERED

1.

1.0 POLICY OVERVIEW

1.1 INTRODUCTION

Tendring District Council is a stock retained landlord holding over 3100 homes in the district for social rent. At a Cabinet meeting held on 11th October 2019, the Cabinet approved in principle to build or acquire 200 additional Council houses on the basis that any proposed specific site development opportunities would be approved by Cabinet on an individual business case and will reflect the overarching direction established by the Housing Strategy. This policy will underpin and compliment the framework for preparation and consideration of business cases.

The demand for socially rented homes remains high in the district. As at 1st May 2020, there were **1958** households on the Council's Housing Register. The number registered for housing has increased significantly in the last four years and the number of households on the Housing Register has tripled. There is an increasing demand from households threatened with homelessness and this is likely to increase during and after the Covid-19 pandemic. There remains a high number of households in temporary accommodation who require a stable home.

To supplement the supply of new build homes provided by the private sector and other registered providers, the Council can build homes itself and acquire properties off the open market. This policy has been written to provide a framework around which those developments and acquisitions can be made and to build upon the ad hoc property acquisitions that have been going on over the last few years.

One of the Council's strategic priorities in its Housing Strategy 2020-2025 "Delivering Homes to Meet the Needs of Local People" is to deliver an Acquisitions and Development policy.

1.2 AIMS OF THIS POLICY

The purpose of this Acquisitions and Development Policy ("the Policy") is to set out a framework for the preparation and consideration of the necessary business case which will be applied when considering opportunities to:

- acquire open market homes;
- acquire homes through S106 planning obligations
- buy back former homes sold under the Right to Buy;
- buy back homes that are partly owned through the Councils' shared ownership and equity schemes or;
- acquire and develop land and new homes for rent and sale.

1.3 LINKS TO THE COUNCIL'S CORPORATE AIMS

This policy supports the Council's corporate aims which are set out and can be viewed at www.tendringdc.gov.uk/council/performance-spending/councils-corporate-plan

1.4 EQUALITY & DIVERSITY

The Council is committed to promoting equality of opportunity in all service areas and has procedures in place to ensure all applicants for housing, tenants and leaseholders are treated fairly without unlawful discrimination.

The Equality Act 2010 provides a legislative framework to ensure Council services are not provided in a discriminatory manner by having due regard to eliminating discrimination, harassment and victimisation, advancing equality of opportunity and fostering good relations.

1.5 POLICY STATEMENT

The Council is required to ensure the best use of funds and this applies equally to the Housing Revenue Account and the General Fund. Our role as a Housing Service is to assess investment options to determine the appropriate use of capital and balance investment in existing stock with the acquisition of property and provision of new homes.

One of the core principals of an asset strategy is to provide buildings that are fit for purpose, sustainable, provide suitable access and are appropriate for use to meet the demand for housing within the District.

This policy will be reviewed and updated periodically to ensure it reflects the current position.

2.0 ACQUISITION & DEVELOPMENT POLICY DETAIL

The Housing Service provides services both through the Housing Revenue Account and the General Fund. The Housing Revenue Account is ring-fenced for activity that the Council undertakes as a landlord to both tenants and leaseholders. The General Fund includes housing related services that are not directly provided as a landlord such as the administration of the homelessness legislation, provision of temporary accommodation outside of the Council's stock and the regulation of private sector housing.

The accountancy and financial rules for these functions are separate and therefore appropriate decision-making frameworks must be applied in accordance with the Budget and Policy Framework and the Financial Procedure Rules.

For the purposes of this Policy, an acquisition of land or property is considered to be an outright acquisition if it consists of:-

- A transfer of the freehold of the asset; or

- A transfer of the leasehold interest of the asset for a period in excess of 21 years.

This policy places an emphasis of adopting procedures that are open, transparent and consistent and aims to ensure intended outcomes are met along with the maximum benefit from the effective purchase and subsequent management of the Council's assets. Separate operational procedures will accompany this policy.

Within this framework, this policy will ensure that the Council achieves value for money, that it acts within the appropriate legal framework, and that it acts in a demonstrably fair and open manner.

The framework for decision making will consider whether each opportunity to acquire or develop adds sufficient value to the merit of the required capital investment based on:

- The Council's corporate priorities.
- The current service strategic priorities.
- The demand for homes for social rent and temporary accommodation.
- The financial viability and sustainability of the acquisition/development.

In respect of the last bullet point above, this policy compliments the Council's existing project management processes and Annual Capital and Treasury Strategy. In effect, this policy supports the general requirement to demonstrate that any decision to acquire or develop housing is evaluated/prioritised, prudent and sustainable. If evaluation activity undertaken in accordance with this policy supports the acquisition or development of housing, then its affordability/funding will be considered in line with the Annual Capital and Treasury Strategy and 30 year Housing Revenue Account Business Plan and form part of any associated decision making processes and option appraisal as discussed further on in this policy.

This policy together with the Council's Constitution, scheme of delegation and Property Dealing Procedure are key documents in the overall management of the Council's land and property portfolio.

For the purposes of this policy, an acquisition is defined as the purchase of all land and property for housing purposes (including social housing or temporary residential accommodation) which will take a freehold, leasehold or licence in land and property using the HRA. This plan will not apply to commercial property acquisitions through the General Fund.

2.1 DEMAND FOR HOUSING

The Strategic Housing Market Assessment for the district (published in December 2015) concluded that there is a requirement for the Council to deliver 550 homes per annum, of which 165 should be affordable homes. These numbers have been incorporated into the Council's emerging Local Plan 2013-2033. The Council's Housing Strategy 2020-2025 "Delivering Homes to Meet the Needs of Local People" sets out the demand for housing in the district from households seeking affordable rented homes in the district. Households applying for housing can express choice about where they want to live and this gives an indication of where the greatest demand for housing is in the district. Whilst households can express multiple areas, the preferred area for households applying for housing as at 1st May 2020, is as follows:

4.

Clacton-on-Sea*	940 households	48%
Harwich/Dovercourt	293 households	15%
Rural Villages	274 households	14%
Frinton/Walton/Kirby's	235 households	12%
Manningtree/Mistley/Lawford	137 households	7%
Brightlingsea	79 households	4%

*Clacton-on-Sea also includes the areas of Great Clacton, Holland-on-Sea and Jaywick Sands.

In deciding whether to acquire properties or land for development, the Council will have regard to the demand for housing in the district and the particular needs that properties will meet in those areas.

3.0 THE DELIVERY OPTIONS

3.1 OPPORTUNITIES TO PURCHASE HOMES ON THE OPEN MARKET

The Council can buy homes on the open market either from an individual seller, another registered housing provider or from a developer. In deciding to purchase open market homes, the Council will have regard to the general criteria that follows in Section 4.1 below. Furthermore, in purchasing an individual property, the Council will also have regard to whether it will meet a critical need for a household on the housing register and the Council will only seek to purchase empty homes with vacant possession.

Open market homes can also be purchased via a partnership with a housing developer or via an up-front commitment to buy "off plan". In these scenarios the Council is able to influence the design of the development and achieve a mix of housing to meet specific needs. In certain circumstances, a partnership may be mutually beneficial for both the Council and the developer in terms of finance and pace of delivery. The land may already be owned by the developer or the Council.

3.2 OPPORTUNITIES TO PURCHASE HOMES THROUGH SECTION 106 AGREEMENTS

A section 106 agreement is a legal agreement signed between the Council and a developer when planning permission is granted for new homes which specifies certain obligations. The s106 agreement will normally require that a proportion of the new homes are delivered as affordable housing or a financial contribution is made in lieu of on-site provision. The homes are made available to the Council or another registered provider to purchase at a discount for affordable housing. A S106 agreement is a mechanism through which new affordable housing can be purchased. In deciding whether to purchase homes through this mechanism, the Council will have regard to the general criteria set out in Section 4.1 below **and** will consider purchasing homes on sites where the number of affordable homes to be delivered will be 10 or less.

It should be noted that the Government is currently consulting on its White Paper "Planning for the Future". The Government is proposing the scrapping of S106 agreements that developers are required to enter into with local authorities to deliver affordable homes. In their place, it proposed to have an updated version of the Community Infrastructure Levy (a flat rate charge that is calculated based on the floor space of the development). If changes are made to abolish S106 agreements for affordable homes, this could compromise the potential number of homes that can be delivered.

3.3 OPPORTUNITIES TO BUY BACK FORMER HOMES PURCHASED THROUGH RIGHT TO BUY

All properties sold under the Right to Buy (both freehold and leasehold) since 18th January 2005 are bound by the covenant of “Right of First Refusal”. If an owner wishes to sell their home within 10 years of purchase, they must first offer the property back to the Council. Additionally, if a property is being sold within 5 years of purchase, the owner must repay a proportion of the discount that was received with the original purchase. The discount to be repaid is set out in the table below:

Property sold after 1 year	100% of discount must be repaid
Property sold during second year	80% of the discount must be repaid
Property sold during third year	60% of the discount must be repaid
Property sold during fourth year	40% of the discount must be repaid
Property sold during fifth year	20% of the discount must be repaid
Property sold after five years	No repayment of discount required

In deciding to purchase a former home sold under the Right to Buy, the Council will have regard to the general criteria set out in Section 4.1 below and will assess if it is pragmatic to purchase a property for tenancy management reasons. The seller must deliver vacant possession to the Council upon completion and will not be permitted to remain in the home as a tenant of the Council.

3.4 OPPORTUNITIES TO BUY BACK HOMES THAT ARE PARTLY OWNED THROUGH THE COUNCIL’S SHARED OWNERSHIP OR EQUITY SCHEMES

Shared ownership homes are homes where the occupier partly owns the property with the Council and pays a rent calculated on the share of the property that they do not own. The Council currently has an interest in 21 shared ownership homes in the district. Shared equity homes are homes where the occupier owns the property outright and does not pay a rental charge but the Council owns the land on which the property is sited. The Council currently has a stake in 62 shared equity homes.

Given there could be an opportunity to buy back properties at a discounted price, in deciding whether to buy back a shared ownership or shared equity home, the Council will have regard to the general criteria set out in Section 4.1 below.

3.5 DEVELOPMENT ON EXISTING LAND AND ACQUISITION OF LAND

In deciding whether to purchase land for development, the same general criteria as set out in Section 4.2 below will apply with regard to demand and cost. However, the Council already has a register of land that is owned in the Housing Revenue Account and therefore this land could be potentially used to develop new homes without the need to separately purchase new land for development. Within two years of this policy being adopted, the Housing Service will appraise each plot of land owned by the Council in the Housing Revenue Account to assess its suitability for development and if the said development is pragmatic and cost-effective for the Council.

The Council has governance structures in place to acquire assets into the General Fund. The Housing Service may request that acquisitions are considered by the General Fund

where the acquisition will have strategic benefit for the housing service (for example, in order to increase the stock of temporary accommodation and reduce costs therein). This could be achieved through a leasing scheme or an in-house estate agency.

Any decision to build new homes on any land owned by the Council must meet the same criteria as that for acquisitions, taking into account the whole development costs.

3.6 DEVELOPMENT AND ACQUISITION OF LAND VIA A THIRD PARTY INVESTOR

Whilst the Council can acquire homes or land for building on itself, an alternative option exists that gives the Council control and ultimately ownership of the end product.

Working with institutional investors and their intermediaries it is possible to bring significant levels of financial investment into the district without the financial risk and outlay associated with borrowing or funding schemes directly. Working on a leaseback arrangement, investors can purchase or build significant number of homes on the basis that they are leased to the Council for a typical term of 40 years. The Council will manage the homes and pay a proportion of the rental income to the investor. Whilst the financial gains for the Council during the lease term are modest, at the end of the term the ownership of the property transfers to Council at NIL cost and becomes an asset within the Housing Revenue Account.

During the lease term the properties are let on assured shorthold tenancies by the Council and can be allocated in much the same way as traditional council homes. The rents can be set higher than a typical social housing rent, often at around local housing allowance levels.

This option is relatively new and with an increasing number of investors turning to this method of investment, there are a number of options available, some of which are being actively explored along with the associated financial and legal implications.

3.7 OTHER OPTIONS

The Council has considered the establishment of a Wholly Owned Council Housing Company as a body to deliver new development in the district across all sectors. Whilst this has been disregarded as an option for now, Cabinet have agreed to keep this option under review and therefore a separate Wholly Owned Council Housing Company may be an option to deliver new homes in the future

4.0 WHAT WILL BE PROVIDED AND WHERE

The sections above highlight the demand for housing and the various delivery options. As part of the housing led regeneration of Jaywick Sands, there is an intention to provide 100 homes there with the remaining 100 provided elsewhere in the district (proportionally aligned to the demand data) and providing the minimum criteria in Sections 4.1 and/or 4.2 below can be met.

The schedule at Annex A sets out the demand for housing in the key conurbations within the district.

The pace of progress towards meeting the 200 home target is difficult to accurately determine. The wider market and the appetite of investors will determine the pace to some extent, although the Council must demonstrate a strong commitment to delivery. Building

using local contractors will be of strong benefit to the local economy, therefore such wider benefits need to be understood when prioritising sites.

A pragmatic approach will be taken where sites are to be acquired and developed by the Council as to how that development is managed. There will be some in-house design and management of schemes but where it is advantageous both financially and with regard to staffing capacity, external local firms will be engaged where appropriate.

Building design will be modern with interesting architecture that reflects the local area whilst providing inspiring places to live. All development and the finished homes will be as energy efficient as reasonably possible and incorporate appropriate renewable energy technologies. Building firms employed will need to demonstrate that they are striving towards a net zero carbon operation.

4.1 ACQUISITION CRITERIA FOR EXISTING HOMES

The Council acting in its capacities under the Housing Revenue Account will apply set criteria in considering:

- Opportunities to purchase homes on the open market or offered to the Council
- Opportunities to purchase discounted homes through S106 agreements
- Opportunities to buy back former homes sold under the Right to Buy and
- Opportunities to buy back homes partly owned through the Council's shared ownership and equity schemes.

In all scenarios referred to above, any property to be acquired should meet all of the minimum criteria set out and achieve an overall score of 15 points based on the assessment below:-

Criteria	Key Risk(s) Addressed	Minimum	Target/Scoring
There must be a demonstrable need for the property in its location	Lack of demand will lead to extended void periods and rental loss	There must be a minimum of 20 households on the housing register seeking the property in that particular area.	High demand= 5 points Medium demand=3 points Low demand =1 point
The property's location and configuration is attractive from a rentable perspective.	Lack of demand will lead to extended void periods and rental loss.	The property must be in a risk-free location e.g not in a flood zone and the room sizes must meet legal requirements.	Low risk location = 5 points Medium risk location = 3 points High risk location = 1 point
The projected rental yield should represent a rational balance between revenue returns and security.	Security of capital invested and providing value for money	The possible rental yield (based on purchase price and any necessary refurbishment and/or development costs) should fall within a range consistent with the wider social housing sector and that achieved from the existing stock	Low risk investment = 5 points Medium risk investment = 3 points High risk investment = 0 points

<p>The property itself should be in good repair and not pose future concerns that could compromise a tenancy or give rise to maintenance expenditure. .</p>	<p>Unforeseen property or repair costs. Contamination.</p>	<p>To include 'due diligence' such as:</p> <ul style="list-style-type: none"> a) Buildings to be of robust construction and in sound condition. b) Not potentially polluting. c) Free from onerous planning conditions and land contamination. d) Any financial appraisal for a lower value homes 	<p>Property in sound condition = 5 points Property is reasonable condition = 3 points Property in poor condition = 1 point</p>
<p>The property is in poor condition and of low value but could be brought back to use through renovation (e.g compulsory purchase or properties purchased at auction).</p>	<p>Security of capital invested and providing value for money</p>	<p>The possible rental yield (based on purchase price and any necessary refurbishment and/or development costs) should fall within a range consistent with the wider social housing sector and that achieved from the existing stock</p>	<p>Low risk investment = 5 points Medium risk investment = 3 points High risk investment = 0 points</p>

4.2 LAND PURCHASE AND DEVELOPMENT CRITERIA

As with the acquisition of existing homes the following set criteria will be considered in respect of the acquisition of new land for development or development on existing land owned by the Council.

Any land to be acquired or developed should meet all of the minimum criteria set out and achieve an overall risk/reward score of 20 points based on the assessment below:

Criteria	Key Risk(s) Addressed	Minimum	Target/Scoring
<p>There must be a demonstrable need for housing in the location</p>	<p>Lack of demand will lead to extended void periods and rental loss</p>	<p>There must be a minimum of 20 households on the housing register seeking housing of the proposed type in that particular area.</p>	<p>High demand = 5 points Medium demand=3 points Low demand =1 point</p>

The proposed development location and configuration is attractive from a rentable perspective.	Lack of demand will lead to extended void periods and rental loss.	The development must be in a risk-free location e.g not in a flood zone and be built to an attractive standard.	High demand location = 5 points Medium demand location = 3 points Low demand location – 1 point
The projected rental yield should represent a rational balance between revenue returns and security.	Security of capital invested and providing value for money. The potential for selling some of the homes developed to offset the investment costs will be taken into account.	The possible rental yield (based on purchase price and development costs) should fall within a range consistent with the wider social housing sector and that achieved from the existing stock	Low risk investment = 5 points Medium risk investment = 3 points High risk investment = 0 points
Tenancy management criteria	Ease of management, risks of ASB or other issues in neighbourhood	The development can be designed to reduce these risks to as low as possible – highest score should be achieved.	Low risk property = 5 points Medium risk property = 3 points High risk property = 1 point
Permissibility of development	Likelihood of gaining planning consent	Pre-application advice indicates that granting of consent is likely	5 points available if planning consent likely or already granted. 0 points if unlikely
Ease of development	Particular challenges presented by the development site	Site presents either few challenges or the challenges identified can be readily overcome	No particular challenges = 5 points Some challenges that can be overcome = 3 points Challenges are significant = 0 points

Prior to the purchase of any site or property a full options appraisal including whole life costing will be carried out which will involve an appraisal of all the options for delivery of the final objective. If the total cost exceeds £100,000, permission to proceed with the acquisition will need to be granted by Cabinet. For acquisitions costing less than £100,000, permission to proceed can be granted by the Portfolio Holder for Finance and Governance in consultation with the Portfolio Holder for Housing.

It should be noted that financial assessments related to yield, property costs and costs that are potentially mitigated elsewhere can be complex. As a general rule a property should provide a positive return to the HRA in the absence of any mitigating factors. Such factors might include the provision of specially adapted housing or housing to meet complex needs where other “system” costs such as temporary accommodation fees are being incurred.

All options appraisals should take into account the on-going cost of ownership of the asset over its lifetime and ensure that any decisions to acquire land or assets is informed by both

capital and revenue implications. VAT implications must also be considered as part of the appraisal process prior to any decisions being made to acquire. The Council will take a medium to long-term view when planning delivery of their services and will need to identify any requirements to acquire land and property.

5.0 FINANCIAL AND LEGAL CONSIDERATIONS

The delivery of new homes built or purchased by the Council will be funded through a combination of reserves in the Housing Revenue Account, Right to Buy receipts, financial contributions paid in lieu of on-site affordable housing by developers and prudential borrowing.

Following the relaxation of borrowing headroom arrangements for the Housing Revenue Account, the Council can now borrow more freely for acquisitions and development. The borrowing cap was an arrangement which the Government put in place when the subsidy system was removed to ensure that the Council did not expose its Housing Revenue Account Business Plan to unnecessary risks. Any additional borrowing has got to be prudent and affordable in terms of the Housing Revenue Account's revenue income ability to pay it, together with any interest charges. It is estimated that the borrowing headroom in the Housing Revenue Account is approximately £20m.

The Council will not borrow capital to acquire or build out homes until such time it is required and detailed financial breakdowns and an appraisal have been provided. This means that individual schemes or acquisitions will need to be approved by Members. As land values remain high, it will continue to be challenging for the Council to compete for land to directly deliver new homes. Opportunities that arise should be evaluated including the potential for partnership and joint ventures with other providers.

One of the main barriers to acquiring or developing homes is the Right to Buy. Whilst the application of the "cost floor" (over the first 15 years after the build the Council can recover the capital cost of the building or acquiring the property) does protect the Council to some extent, if there are no changes to the current discount levels or other scheme parameters, the Council will make a loss on every new unit that is subsequently purchased by the tenant under the Right to Buy scheme until the debt associated with the purchase is paid off.

Before an asset is acquired, the Housing Service will carry out a financial viability appraisal to establish the whole-life financial implications of the acquisition. This will be achieved by rent modelling (with associated void/bad debt costs and stock reduction factor for Right to Buy sales), establishing the cost borrowing and estimating the costs of responsive maintenance, management and major repairs over a 30 year time horizon. Any financial appraisal will need to demonstrate that there will be sufficient surpluses to cover the cost of the associated debt over the 30 year period. The appraisal will also consider the main risk of the loss of surpluses from the Right to Buy by modelling different stock reduction rates and considering how the risk can be mitigated.

Any acquisition will be reflected in the overall Housing Revenue Account Business Plan. The main principle behind appraising acquisitions is that they will not detrimentally impact upon the HRA capital programme or HRA balances. However, the HRA Business Plan does anticipate surpluses over its lifespan which are currently allocated to the Housing

Commitments Reserve which could be reallocated in future years to underwrite the risk of losses due to the Right to Buy. The level of risk exposure should be highlighted to Members with every acquisition appraisal and they can exercise decisions to underwrite future risks..

The values need to be consistent with the Council's Property Dealing Procedure. Legal authority must be sought for all land and property transactions and completed through Legal Services. All acquisitions will require formal third party independent valuation advice such as red book. All acquisitions will be subject to appropriate legal investigations and due diligence (including relevant surveys to de-risk the purchase). If these investigations identify risks which render the acquisition unviable, the transaction will not proceed.

Section 9 of the Housing Act 1985 states a housing authority may provide accommodation for housing purposes by with erecting or converting buildings into houses, on land acquired by them or by acquiring houses.

Section 17 of the Housing Act 1985, provides the principal power for the acquisition of land for housing purposes including land as a site for the erection of houses.

Provisions within the Housing Act 1985, sections 9 and 56, allow for the Council to designate the building as a hostel for the provision of housing accommodation and therefore, accounted for within the HRA.

Section 12 Local Government Act 2003 empowers the Council to invest if the purpose is relevant to its functions and consistent with the prudent management of its financial affairs.

6.0 MANAGEMENT OF RISKS

The following table sets out the general risks that will be taken into account when considering purchase or development opportunities.

Risk	How Managed
Extended Void Periods/reduction in demand in the medium to long term	Property can be sold and receipts spent elsewhere
Capital investment costs may not be recoverable	The property market can fluctuate and prices can go down as well as up. The long-term forecast suggests that property prices will increase. As we can sell any homes as necessary, the risk can be controlled.
Impact of Right to Buy	The major risk to deter the Council from acquiring or developing homes is the Right to Buy. The "cost floor" (over the first 15 years after the build, the Council can recover the capital cost of the building or acquisition) does provide some protection. Each development or acquisition will be subject to a whole life costing assessment which will include the likely impact of the Right to Buy based on historic/projected levels of Right to Buy sales. The Council will continue to lobby Central Government to extend the cost floor to 30 years.

Potential damage to properties by tenants	New homes will be visited regularly by the Tenancy Management team to ensure tenants are complying with their tenancy agreements. The Council has robust policies and procedures in place to tackle anti-social behaviour and recharge policies to recover the cost of deliberate damage to homes.
Concerns from other local residents	The Council has an excellent reputation as a landlord and has procedures in place to deal with neighbour disputes such as mediation and enforcement powers.
Potential future costs falling on the HRA do not adversely impact on the sustainability of the 30 year HRA Business Plan	Each development or acquisition will be subject to a whole life costing assessment which will include the likely impact of the Right to Buy based on historic/projected levels of Right to Buy sales and risk assessed at different levels and decisions made to mitigate /underwrite the risk.

7.0 LINKS TO OTHER COUNCIL DOCUMENTS

- Corporate Plan 2020-2024
- Housing Strategy 2020-2025
- Homelessness Reduction & Rough Sleeping Strategy 2020-2024
- Housing Revenue Account Business Plan
- Strategic Housing Market Assessment (published December 2015)
- The Council's emerging Local Plan 2013-2033
- Housing Revenue Account Assets Register
- General Fund Assets Register
- Annual Capital and Treasury Strategy

This policy will be reviewed annually and amended if necessary in consultation with the Portfolio Holder for Finance and Corporate Governance and the Portfolio Holder for Housing.

8.0 MONITORING OF THE EFFECTIVENESS/PERFORMANCE OF THIS POLICY

As mentioned previously, this policy compliments the Annual Capital and Treasury Strategy which sets out key requirements in terms of monitoring performance including the delivery of intended outcomes/benefits.

In accordance with the Annual Capital and Treasury Strategy, key monitoring information will be included within existing financial reporting processes such as in-year financial performance reports and comprehensive budget reports presented to Council in February each year.

9.0 SPECIAL CONDITIONS RELATING TO DEVELOPMENT IN JAYWICK SANDS

Development in Jaywick Sands requires a different approach to the assessment of risks to that set out above. Due to ground conditions and the flooding risk in the area it is necessary to build flood resilient homes which by their nature cost more than houses developed in most other areas of the district.

It is therefore likely that developments in Jaywick Sands will achieve a low score when assessing against the criteria set out in Section 4.2. above The development of 10 homes in

the area by the Council over the past few years has demonstrated the difficulties that building in the area presents and the higher costs of doing so.

Development of the 100 homes in Jaywick Sands has therefore to be assessed with the wider regeneration of the area in mind and an acceptance that there will be a greater associated risk. These risks will be clearly laid out in the reports that are brought forward for decisions.

ANNEX A – WHERE WILL THE HOMES BE DELIVERED

As has been stated earlier in this document, the demand for affordable housing in the district is rising each year and the Council expects that homelessness will increase once some of the measures introduced by the Government during the Covid-19 pandemic are relaxed e.g. the lifting of the ban on landlord's serving notices on private tenancies. Loss of a private rented property is the main cause of homelessness in the district.

It is therefore important that the Council, in its Community Leadership role, enables as much new affordable housing to be delivered either directly as a provider or in supporting other providers and partners to deliver new affordable housing in the district.

The Council's Cabinet aspires to deliver 200 new Council homes in the district over the next 5 years. 100 are proposed to be delivered in Jaywick Sands and a further 100 in other parts of the district. It is important for the Council to set out where it aspires to deliver the 100 homes in other parts of the district and the rationale for its decision.

The following table sets out, on a percentage basis, where the local affordable rented stock is currently located, the percentage of new affordable homes delivered in each area and the current demand for housing.

Area	% of homes in TDC stock	% of homes in other registered provider stock	% of new affordable homes delivered in the last 5 years by area	% demand for housing in area
Clacton-on-Sea	34%	55%	12%	48%
Harwich/Dovercourt	22%	17%	54%	15%
Frinton/Walton/Kirbys	7%	9%	1%	12%
Mistley/M'tree/Lawford	13%	3%	15%	7%
Rural Villages	19%	12%	13%	14%
Brightlingsea	5%	4%	5%	4%
Total	100%	100%	100%	100%

The data above shows that there are some parts of the district that have a higher demand for affordable housing than others with Clacton-on-Sea having a much higher demand than other parts of the district. The table also shows that in recent years, some areas, notably Harwich/Dovercourt, Mistley/Manningtree/Lawford and Brightlingsea have had a percentage of more new affordable homes delivered than the current demand for housing in those areas.

In terms of future delivery of affordable rented homes, both the Council and other registered providers have agreements in place (either S106 agreements or contracts with Homes England and private developers) to deliver new homes in the district. The following number of homes are due to be delivered over the next 5 years:

15.

Area	No. of homes to be delivered by or to TDC	No. of homes to be delivered by Registered Providers
Clacton-onSea	26	0
Harwich/Dovercourt	2	52
Frinton/Walton/Kirbys	45	0
Mistley/Mannngtree/Lawford	19	0
Rural Villages	37	44
Brightlingsea	6	0
Total	135	96

In determining where to deliver additional council housing, the Council has taken into account past delivery and projected future delivery and the demand for housing across the district. It is essential that there is flexibility to deliver new homes in all areas (a flexible quota) as opportunities may arise to acquire or develop homes where the risks in terms of costs are minimal and it is important that all areas of the district are served by the provision of new council housing. However, as a guide, the Council will seek to deliver the following number of new Council homes in each area of the district.

Area	Number of new Homes
Clacton-on-Sea	40
Harwich/Dovercourt	5
Frinton/Walton/Kirbys	10
Mistley/Manningtree/Lawford	5
Rural Villages	5
Brightlingsea	5
Flexible Quota	30
Total	100

Key Decision Required:	No	In the Forward Plan:	No
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CABINET

9 OCTOBER 2020

REPORT OF THE PORTFOLIO HOLDER FOR PARTNERSHIPS

A.3 DETERMINATION OF A NOMINATION TO REGISTER AN ASSET OF COMMUNITY VALUE: THE HANOVER INN, 65 CHURCH STREET, HARWICH ESSEX CO12 3DR (Report prepared by Gill Burden and Andy White)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To determine whether The Hanover Inn meets the criteria set out in the Localism Act 2011 (“the Act”) and the Assets of Community Value (England) Regulations 2012 (“the Regulations”) following its nomination as an Asset of Community Value by Tendring CAMRA Branch. No other criteria are pertinent.

EXECUTIVE SUMMARY

A valid nomination to register an asset of community value has been received from Tendring CAMRA Branch as shown identified in the plan included within Appendix A.

If a local authority receives a valid nomination, it must determine whether the land or building nominated meets the definition of an asset of community value as set out in Section 88 of the Localism Act 2011 and The Assets of Community Value Regulations 2012.

The Government’s non statutory guidance defines an asset of community value as: “Building or other land whose main (i.e. “non-ancillary”) use furthers the social wellbeing or social interests of the local community, or has recently done so and is likely to do so in the future”. The Report provides an assessment of the nomination.

The Cabinet should consider the content of the nomination against the statutory criteria (and no other factors) and determine whether the asset should be included within the Council’s List of Assets of Community Value.

Taking the evidence provided into account it is recommended that the building nominated does meet the criteria set out Section 88 of the Localism Act 2011. Accordingly it is recommended that the criteria are met and that the building should be listed as an Asset of Community Value.

RECOMMENDATION(S)

That Cabinet determines that The Hanover Inn, 65 Church Street, Harwich, Essex CO12 3DR meets the definition of an Asset of Community Value as set out in Section 88 of the Localism Act 2011 and that the asset be added to the Council’s list of Assets of Community Value.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

Assets of Community Value exist in a range of forms and functions. Individual properties may contribute in different ways across the spectrum of Council priorities.

FINANCE, OTHER RESOURCES AND RISK

Finance and other resources

There are circumstances where the Council may be required to pay compensation. It is hard to quantify this risk and it is therefore not proposed to make a specific allocation.

Risk

The Hanover Inn was still trading pre COVID 19 and has tried to re-open as a public house since restrictions were eased without success. Consequently there is substantial risk that the property cannot be sold at a price acceptable to the owners as a trading premises.

The Property is currently on the market and there is a high chance that listing will result in the need to compensate the current owners.

There is always some risk that the decision in relation to the nomination will be controversial whether it is listed or not.

LEGAL

If a local authority receives a valid nomination, it must determine whether the land or building nominated meets the definition of an asset of community value as set out in Section 88 of the Localism Act 2011:

(1) A building or other land in a local authority’s area is land of community value if in the opinion of the authority —

- (a) an actual current use of the building or other land that is not an ancillary use furthers the social wellbeing or social interests of the local community, and;
- (b) it is realistic to think that there can continue to be non-ancillary use of the building or other land which will further (whether or not in the same way) the social wellbeing or social interests of the local community.

Section 88(2) of the Act extends this definition to land which has furthered the social wellbeing or social interests of the local community in the recent past, and which it is realistic to consider will do so again during the next five years.

Under Schedule 2 of the Local Authorities (Functions and Responsibilities) Regulations 2000, as amended, the determination of an appeal against any decision made by or on behalf of the authority can be made by the Executive or another Committee. It is considered that as Cabinet will be the decision maker of the outcome of the nomination, any review received should be considered and referred to the Community Leadership and Partnerships Overview and Scrutiny Committee, which already includes within its terms of reference review of Cabinet decisions.

The Assets of Community Value (England) Regulations 2012 (“the Regulations”) provide procedural detail to give effect to the assets of community value scheme. An earlier report on this subject set out a proposed procedure for dealing with the nomination of Assets of Community Value in accordance with the Regulations and Officers have adhered to the

procedure and it is now proposed that Cabinet considers the nomination in accordance with the procedure.

OTHER IMPLICATIONS

Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.

Crime and Disorder / Equality and Diversity / Health Inequalities / Area or Ward affected / Consultation/Public Engagement.

Assets of Community Value exist in a range of forms and functions. Individual properties may contribute in different ways across the spectrum of implications. The Act and Regulations are intended to increase public engagement.

Area or Ward Affected

Harwich and Kingsway

PART 3 – SUPPORTING INFORMATION

BACKGROUND

The Act and Regulations, also collectively known and described as Community Right to Bid place a duty on local authorities in England and Wales to maintain a list of land in their areas that is land of community value as nominated by the local community.

The local authority must consider only if the nominated asset meets the criteria set out in Section 88 Localism Act 2011 in that it is satisfied:

- (a) the actual use, not an ancillary one, that furthers social wellbeing or social interest of the local community; and
- (b) that there can continue to be a non-ancillary use, which will further the social well-being or social interests of the local community.

The Council must maintain:

- A list of assets that are held to be of community value; and
- A list of assets identified in unsuccessful nominations.

If land or buildings are placed on the list of assets of community value:

- They remain on the list for five years;
- They are subject to a local land charge;
- If the owner wishes to sell (some exemptions apply) the asset they must notify the Council;
- The Council must notify the nominator and publicise the potential sale;
- All community groups have a six week window to register their intent to bid for the asset;
- If no registration of intent is received the owner may then sell the asset as they see fit (subject to any normal legal processes);
- If intent is registered community groups are then allowed a further 20 weeks (strictly 6 months from the date of the owner's notice) to raise money, reach agreement or otherwise bid for the asset;
- The owner may sell to a community group at any time but is never obliged to do so;

- If no community bid is made or accepted within the six months the owner may then sell the asset as they see fit;
- No further bid or moratorium can be made for a period of 18 months from the owner's notice; and
- If the owner suffers financial loss as a result of the imposition of either moratorium the Council must compensate the owner.

The provisions of the community right to bid does not:

- Restrict who the owner of a listed asset can sell their property to, nor at what price;
- Confer a right of first refusal to community interest groups,
- Enable a community group to trigger disposal of a site;
- Place any restriction on what an owner can do with their property, once listed, if it remains in their ownership.

Only the owner of the land has the right to seek a review of the decision to include any land on the list in accordance with Section 92 of the Localism Act 2011. This must be done in writing within 8 weeks of the written notice of inclusion of the land in the list.

The table below, based on guidance produced by the Public Law Partnership sets out an overview of what the Act and Regulations intend to constitute as an Asset of Community Value”.

The Act intends to apply to Land and Buildings Where:

1. The main use of the land or building **furtheres the social wellbeing or social interests of the local community** at the present time AND it is realistic to think that this can continue into the near future (even if the type of social use or benefit might change), or;
2. The main use of the land or building **furthered the social wellbeing or social interests of the local community** in the recent past AND it is realistic to think that this could again happen **in the next five years** (even if the type of social use or benefit might change).

The Act does not intend to apply to land where:

1. The main use of the land or **building furthered the social wellbeing or social interest of the local community some years ago** but is not presently in use for a social purpose, or;
2. The land or building has **not recently been, and is not currently, in use for a primarily social purpose**, or;
3. The land or building has been **empty or derelict** for many years and remains so today.

In their Guidance Public Law Partnership provide some helpful interpretation of these terms:

“This could apply to a broader set of activities and not just cultural, recreational and sport interests as provided by the Act. Working with local communities it could include: any land or building where the main purpose is for the provision of public services for education, health and wellbeing or community safety e.g. nurseries, schools, children's centres, health centres, surgeries, hospitals, day care centres, and residential care homes. Sport, recreation & culture e.g. parks and open green spaces, sports and leisure centres, libraries, theatres, museums and heritage sites, cinemas, swimming pools. Community services e.g. community centres, youth centres, and public toilets. Any economic use which also provides important local social benefits e.g. village shops, pubs, markets.

“What does it mean “realistic to think that this can continue into the near future”? For the use which is **currently ongoing**, the working assumption should be that the present use can continue into the future, unless the local authority is able to identify evidence that is unlikely to be the case. In other words where the asset is presently in social use there should be a **presumption of continued viability**, unless clear evidence suggests otherwise. For a **social use which has lapsed** and needs to be re-established the local authority will need to take a view on the realism of re-establishing this. A new approach can help to re-establish services that were previously not viable.

Whilst COVID-19 restrictions including socially distancing are having a huge impact on the ability of pubs to function safely and viably, the ACV Legislation does not currently address recent COVID-19 restrictions. Therefore when considering if the nominated asset meets the criteria only the issued legislative guidance can be applied.

CURRENT POSITION

The Nomination Form has been submitted by Tendring CAMRA Branch (attached at Appendix A), and contains at B4 and B5 reasons why the nominators consider that the building is of community value and how the land could be acquired and used in the future.

The nomination states that the building is currently trading as a public house which furthers the social wellbeing and interests of the local community in various ways. The nominating body states the pub supports regular fundraising events, and contributes to a number of local festivals held in the Harwich area including The Harwich Sea Shanty Festival and Lifeboat Day, local Beer Festivals and it often hosts live music. The nomination also states the venue is used during the Harwich Sausage Festival and that Morris Dancers perform outside the building in its prominent position in the town. The Hanover Inn was listed Grade 11 by English Heritage in 1972.

The nomination states the pub hosts various teams including crib and darts who all compete locally in the relevant leagues. The nomination states the pub gives local people a greater choice of places to meet and socialise encouraging community cohesion and a collective sense of well-being. The nomination states the reason for nominating The Hanover Inn is to ensure the building has the opportunity to continue as a public house and that the pub customers and wider Harwich community should have the opportunity to form a community interest group and bid for the pub, if or when it is up for sale.

In accordance with the Regulations the landowner has been notified and they have made representation with extensive details (attached and partially redacted at Appendix B) that include the fact The Hanover is currently up for sale. A response has been sent explaining that only points relative to the validity of the nomination or the applicability of the criteria can be taken into account and Officers have also visited the site.

Noting that the property has been for sale for some time and the nominator’s view that the “...community should the opportunity to form a community interest group and bid for the pub, if or when it is up for sale.” Officers have written to the nominator asking what progress has been made in that regard. At the time of writing a reply has not been received. Any response received prior to the meeting will be made available at the meeting.

It is recommended that the building does meet the criteria set out in Section 88 (2) (a) of the Act:

there is a time in the recent past when an actual use of the building or other land that was not an ancillary use furthered the social wellbeing or interests of the local community

The Nomination request is being sought with the stated intention of continuing the main use which furthers the social wellbeing or interests of the local community.

Taking the above into account it is recommended that the matter for consideration is whether the building nominated does meet the criteria set out in Section 88 (2) (b) of the Localism Act 2011, specifically:

it is realistic to think that there is a time in the next five years when there could be non-ancillary use of the building or other land that would further (whether or not in the same way as before) the social wellbeing or social interests of the local community.

Planning and Listed Building applications have been made for the conversion of the building to flats. In the current climate it seems unlikely that a purchaser will pay the current asking price for the premises if the applications are refused. Accordingly the result of a refusal may be that the price has to be lowered to a level at which some use within the current planning status becomes viable. Conversely it would appear that approval would potentially result in a higher value that could make such use unviable.

At the time of writing no planning decision has been published and the building may not be converted. Accordingly it is recommended that the criteria are met and that the building should be listed as an Asset of Community Value.

It may be that a planning permission or successful appeal would be a material change of circumstances that prompts a listing review.

BACKGROUND PAPERS FOR THE DECISION

Non-statutory advice note for local authorities produced by DCLG Community Right to Bid – October 2012

APPENDICES

Appendix A – Nomination Form (Redacted)

Appendix B – Representation on behalf of owners (Redacted)

LOCALISM ACT 2011

THE COMMUNITY RIGHT TO BID

NOMINATION FORM

A: You and your organisation

Your Name
Organisation (full official name)
Your position in the organisation Pub Protection Officer
Organisation address (including postcode)
Daytime telephone no
Email address
How and when can we contact you?* E-mail at anytime

*other correspondence address or preferred way or time for us to contact you

Type of organisation

Description	Put a cross <input checked="" type="checkbox"/> against all those that apply	Registration number of charity and/or company (if applicable)
Neighbourhood forum	<input type="checkbox"/>	
Parish Council	<input type="checkbox"/>	
Charity	<input type="checkbox"/>	
Community interest company	<input type="checkbox"/>	
Unincorporated body	<input type="checkbox"/>	
Company limited by guarantee	<input checked="" type="checkbox"/>	
Industrial and provident society	<input type="checkbox"/>	

Unincorporated bodies only:

In the case of an unincorporated body, at least 21 of its members must be registered to vote in the Tendring District or an adjoining authority. If relevant, please confirm the number of such members. If they are registered to vote in the area of a neighbouring local authority, rather than in Tendring, please confirm which area that is.

Local connection

Your organisation must have a local connection, which means that its activities are wholly or partly concerned with the administrative area of Tendring District Council or a neighbouring local authority. Please explain what your organisation's local connection is.

- * The CAMRA Branch hosts two annual beer festivals in the local area
- * The Branch hosts meetings in the local pubs and the local area
- * The Branch nominates a local pub of the year in this area
- * The Branch presents awards to pubs in the area
- * The Branch runs campaigns to save local pubs in the area
- * The Branch writes a local newsletter about pubs and campaigns in the area

A6 Distribution of surplus funds (certain types of organisation only)

If your organisation is an unincorporated body, a company limited by guarantee, or an industrial and provident society, its rules must provide that surplus funds are not distributed to members, but are applied wholly or partly for the benefit of the local area (ie. within the administrative area of Tendring or a neighbouring local authority). If relevant, please confirm that this is the case, and specifically which area this applies to.

CAMRA, the Campaign for Real Ale, is an independent consumer organisation campaigning for real ale, community pubs and consumer rights. CAMRA is a company limited by guarantee, registered in. CAMRA's national surplus is not distributed to its members and the individual CAMRA Branch activity where the pub is nominated is wholly or partly applied to the local authority area. The local CAMRA Branch submitting this nomination does not distribute any surplus it makes to its members in line with Section 5 of the regulations. The CAMRA branch has a local connection as demonstrated by the following activities which are run and funded by the branch within the local authority district.

The decision outlined that CAMRA and its local branches can be treated in a 'hybrid' way and relies upon CAMRA's status as a company limited by guarantee which does not distribute any surplus it makes to its members as well as the local branch's own activities that provide a local connection with the land/property nominated. The nomination is being submitted by the CAMRA Branch in line with Judge NJ Warren's First Tier Tribunal General Regulatory Chamber decision in St Gabriel Properties Limited – v – London Borough of Lewisham and South East London Branch of CAMRA

A7 More about your organisation

What are the main aims and activities of your organisation?

CAMRA

A8 Your organisation's rules

Please send us a copy of the relevant type of document for your organisation, and put a cross in the next column to indicate which one this is	X
Memorandum and Articles of Association (for a company)	X
Trust Deed (for a trust)	
Constitution and/or rules (for other organisations)	

Part B: About the land or building(s) you are nominating

B1 Description and address

What it is (eg. pub, local shop)

Public House

Name of premises (eg. Royal Oak / Littletown stores)

The Hanover Inn

Address including postcode (if known)

65 Church Street
Harwich
CO12 3DR

B2 Sketch plan

Please include (here or on a separate sheet) a sketch plan of the land. This should show:-

The boundaries of the land that you are nominating

The approximate size and position of any building(s) on the land.

Any roads bordering the site.



GROUND FLOOR

STEVE NORMAN PLANNING DESIGN BUILDING CONSULTANT	PROJECT: CHURCH STREET 100 EASTMAN PLAZA NEWARK
37 Goldstate Close Calden NJ CO# 081 Phone: 973-235-8470 www.stevnorman.com	OWNER: MR & MRS BARNES DATE: EXISTING GROUND FLOOR SCALE: 1/8" = 1'-0" DRAWN BY: JOHN W. PERRY

B3 Owners and others with an interest in the building or land

You should supply the following information, if possible. If any information is not known to you, please say so.

	Name(s)	Address(es)
Names of all current occupants of the land	ALL REDACTED	ALL REDACTED
Names and current or last known addresses of all those owning the freehold of the land (ie. owner, head landlord, head lessor)		
Names and current or last known addresses of all those having a leasehold interest in the land (ie. tenant, intermediate landlord, intermediate lessor)		

B4 Why you think the building or land is of community value *Note that the following are not able to be assets of community value:-*

- *A building wholly used as a residence, together with land “connected with” that residence. This means adjoining land in the same ownership. Land is treated as adjoining if it is separated only by a road, railway, river or canal.*
- *A caravan site.*
- *Operational land. This is generally land belonging to the former utilities and other statutory operators.*

Does it currently further the social well being or social interests* of the local community, or has it done so in the recent past? If so, how?

The Hanover Inn currently has 2 Darts teams that play in the local Darts league.

They also have a Crib team which compete in the local Crib league.

The Hanover Inn is involved in a number of local festivals held within the Harwich area, these include:

The Harwich Ale Trail, an event which was set up and run by all the local landlords. This involves all the pubs in Harwich and is held over a 4 day period every year.

They support both of the local Beer festivals, one organised and run by CAMRA and an independent festival organised by the Harwich Town Brewing Co.

They support the Harwich Sea Shanty Festival and Lifeboat Day, which is held every year, and raises money for local charities, an event which is held over a 3 day period each year featuring both local and international shanty groups.

The Hanover Inn is a venue that has often hosted live music and has supported local bands and entertainers.

It is also one of the main venues used during the annual Harwich Sausage festival preparing and cooking sausages for the main judging event.

It is frequented by visitors, both local and from further afield, and on occasion the local Morris Dancers can be seen performing outside the Hanover and it's position in the town, situated next to the Church, makes it one of the first places visitors to the town often come across.

It has an excellent reputation for serving good food and fine ales and is a recent winner of the Tendring CAMRA Pub of the Year award.

The Hanover Inn was listed Grade II by English Heritage in 1972.

Could it in future further the social wellbeing or social interests* of the local community? If so, how? (This could be different from its current or past use.)

The Hanover Inn gives local people a greater choice of places where they can meet and socialise in a welcoming friendly and safe environment.

Such social interaction is also in the interests of the locality as a whole as it encourages community cohesion and a collective sense of well-being.

The Hanover Inn, has been in the past, and still is, a hub of the community and provides a safe, family friendly atmosphere where people from all walks of the community can get together, join in local events run by local people, and hopefully will continue to do so in the future.

These could be cultural, recreational and/or sporting interests, so please say which one(s) apply.*B5** **How could the building or land be acquired and used in future?** *If it is listed as an asset of community value, community interest groups (not just limited to your organisation) will get the opportunity to bid for it if it comes up for sale. Please set out how you think such a group could fund the purchase of the building or land, and how they could run it for the benefit of the community.*

The reason for the nomination is to ensure that the building has the opportunity to continue as a public house serving both the local community and Harwich's many visitors.

The pub customers and wider Harwich community should have the opportunity to form a community interest group and bid for the pub, if or when they do decide to sell.

Harwich is a growing area which has a thriving social community. There are plans for further dwellings to be built within the Harwich and Dovercourt area so it would make sense for this building to remain as a public house given its situation in the town.

There are various examples of community groups raising sufficient funds to purchase pubs as community ventures and successfully run them for the benefit of the local community.

Indeed within the Tendring area we have the excellent examples of The Maybush in Great Oakley and The Cross at Bromley, which, after being nominated as an ACV, have been purchased by the community and are trading well with a lot of support from the local community.

Section C: Submitting this nomination C1

What to include

- The rules of your organisation (question A8).
- Your sketch plan (question B2).**C2** **Signature***By signing your name here (if submitting by post) or typing it (if submitting by email) you are confirming that the contents of this form are correct, to the best of your knowledge.*

Signature

Representation from owners

I write to you in response to your email above. First off I would like to say I was unaware that Camra were going to apply for an acv on the pub, REDACTED of Camra advised me they wouldn't be applying for an ACV.

We have tried to sell the property for over a year now, with little success, the property was valued by three pub selling agents all valuing the property in excess of £500,000 at the time, we decided we wanted a quick sale and started marketing at £475,000 under the instruction of REDACTED we felt that was still too high but agreed to leave it for 2 months and see what happened. We had zero interest and quickly reduced the selling price by £50,000 to make it more attractive. We had two viewings once we reduced the price but no offers and no further viewings. We sold our home to purchase the Hanover inn, there are REDACTED here so we need to get at least £400,000 to find somewhere big enough to house us all.

Camra have spoken about buying the pub as a community buy, however they do not want to pay anything of value for the property, they seem to be under the illusion we only paid £108,000 for the property. This is incorrect, we paid REDACTED for the property and have the solicitor paperwork to prove it, what is listed on the land registry is incorrect and I must get round to getting it corrected, However as we have paperwork from the purchasing solicitor we weren't overly concerned. I can send this in if you wish. We have also heavily invested in the property by installing central heating, which on a building with 28 rooms wasn't cheap, we have spent in excess of REDACTED on the pub refurbishment to try and attract more business only to hit a high for two months and watch it fall rapidly once people realised we could not compete with wetherspools, REDACTED of this was my own money which i will not get back. We feel that if we cannot make the pub viable a community buy has less chance of succeeding than we would if continued ourselves.

We reached a point in January this year after suffering terrible takings during October and November last year of which December didn't cover financially that we were losing money more than ever. We began talks with our accountant REDACTED then in March as you know Covid-19 hit and we all had to close/lockdown. As soon as the government announced that pubs would not be open at least until July the 4th we realised no one is going to buy a pub, we spoke with our agent who said any pub sales now had fallen through, all pub sales had ceased and in their estimation it will take years to recover. Given that we decided that our only way forward is to turn the property into residential accommodation, hence the planning application.

The points that have been thought about by us as a business and considering social distancing, Camra's points in their ACV application and the survival as a public house have been deeply thought about even while planning is in application as we may not get accepted for planning we have had to consider our survival and livelihood.

Camra has said in their letter/application that we have Darts teams and cribbage teams, all of which bring us valuable trade especially through the winter when no one is going out have now left the Hanover and spread between the flag and the Stingray. REDACTED was aware of this prior to the application as he is the one that told me "you won't get your darts teams back". We have had meetings with the all of the teams and they have refused to come back saying that if we are considering turning the pub into flats that they need to find other places to play. Nothing we could say would bring them back. We have now lost vital business worsening our situation.

We decided not to re open on July the 4th due to having such a small area of floor space in the pub and no beer garden or outside drinking area it would actually cost us money to be open rather than stay closed in the hope social distancing may be relaxed in August. Relaxing of safety criteria doesn't look likely to happen any time soon so at this point we have had to make all of our staff

redundant to give them a chance to find work whilst we try and find a way forwards for the business however we feel we are not going to make it as a business. Trade is slow and will continue to be for some time, also during lockdown and pub closures peoples habits have changed and whilst there are numerous other venues in town we will all be chasing the same small amount of business.

Camra also mention that we have Live Music. We had numerous complaints from local residents about live music and were forced to limit live music to once a month at best after seeking approval from the neighbours in advance, therefore we have rarely done live music since, so rare I can only recall having live music twice in the last two years. We also have a noise complaint from the extraction fan from the kitchen, we cannot afford to rework the kitchen extraction so have stopped doing food also along with the fact that it costs us £400 per week in running cost to open the kitchen and with limited trade we would be further sinking into debt.

Camra say that the Hanover is an asset of community value, This would make more sense if there less pubs. There are plenty of pubs within a two minute walk, You have the stingray, the new bell inn, the flag and the Alma Inn to name but four. There are more as I'm sure you are aware all of these pubs have a genuine pub atmosphere. Should we not re open this would give other pubs close by more of a chance of survival.

Please see the letter attached from our accountant, which shows the situation we were in prior to covid-19 and shows how bleak the outlook for the Hanover inn is now. (DOCUMENT REDACTED as contains personal financial details)

A side note that is another thorn in our side is that the neighbours in Kings Quay street are trying to stop deliveries into the pub Via kings Street, this will add more hindrance as the front of the pub is on Church street where it narrows so much you can't even park a car there, how we would get our deliveries if this is stopped would be walking each item a very long distance which our suppliers say would increase delivery charges due to poor access.

Should you need any clarification please do not hesitate to contact us.

Kind Regards

REDACTED

Dear Mrs. Burden

I'm not sure if you would have made a decision yet or not but I have some more information regarding Camra and their ACV application. We tried reopening at the weekend in an attempt to try and save what business is left hoping for support from Camra and the local community, however we were extremely disappointed. Camra say they that we are an asset of community value, however only 2 of the local camra gentlemen came to the pub over the weekend from friday lunchtime through to Sunday evening. Business was extremely poor, of all the people that objected to the planning only two of the people that objected came in to support us, the same two camra gentlemen. We have to throw away 2 x 3/4 full tubs of real ale through lack of business. We advertised our reopening and through Facebook we seemed to get a lot of support, however this wasn't the case with footfall over the weekend, we took a grand total of £800 for the weekend which is un-survivable, not having a beer garden doesn't help I know and we will continue to try new ideas but there are two other factors hindering us. 1, A lot of the local community appear to dislike us now we've applied for planning,(we attempted to say we are giving our daughters a chance to run the pub in order for people to support them and the business) 2: The cook who we made redundant seems to have turned all our real ale drinkers against us, we cant prove this but our cook is well liked and small minded people will hate us for making her redundant, we didn't have a choice as

with social distancing we couldn't make enough to keep her employed any longer and we thought it was fairer to let her go and find other employment.

That's the current state of affairs. We are extremely close to insolvency so if business doesn't improve we will have to fold up the business. Quick question if the business become insolvent is the ACV on the building (I expect it is) or on the business? Whatever the answer is it wont have any bearing on whether we go insolvent or not as i am sure this is out of our hands

Kind regards

REDACTED

Key Decision Required:	No	In the Forward Plan:	No
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CABINET

9 OCTOBER 2020

REPORT OF THE PORTFOLIO HOLDER FOR PARTNERSHIPS

A.4 DETERMINATION OF A NOMINATION TO REGISTER AN ASSET OF COMMUNITY VALUE: THE ANCHOR INN 1 ANCHOR LANE, HARWICH ROAD, MISTLEY, ESSEX CO11 1ND (Report prepared by Gill Burden and Andy White)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To determine whether The Anchor Inn meets the criteria set out in the Localism Act 2011 (“the Act”) and the Assets of Community Value (England) Regulations 2012 (“the Regulations”) following its nomination as an Asset of Community Value by Mistley Parish Council. No other criteria are pertinent.

EXECUTIVE SUMMARY

A valid nomination to register an asset of community value has been received from Mistley Parish Council as shown identified in the plan included within Appendix A.

If a local authority receives a valid nomination, it must determine whether the land or building nominated meets the definition of an asset of community value as set out in Section 88 of the Localism Act 2011 and The Assets of Community Value Regulations 2012.

The Government’s non statutory guidance defines an asset of community value as: “Building or other land whose main (i.e. “non-ancillary”) use furthers the social wellbeing or social interests of the local community, or has recently done so and is likely to do so in the future”. The Report provides an assessment of the nomination.

The Cabinet should consider the content of the nomination against the statutory criteria (and no other factors) and determine whether the asset should be included within the Council’s List of Assets of Community Value.

Taking the evidence provided into account it is recommended that the building nominated does meet the criteria set out Section 88 of the Localism Act 2011. Accordingly it is recommended that the criteria are met and that the building should be listed as an Asset of Community Value.

RECOMMENDATION(S)

That Cabinet determines that The Anchor Inn 1 Anchor lane, Harwich Road, Mistley, Essex CO11 meets the definition of an Asset of Community Value as set out in Section 88 of the Localism Act 2011 and that the asset be added to the Council’s list of Assets of Community Value.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

Assets of Community Value exist in a range of forms and functions. Individual properties may contribute in different ways across the spectrum of Council priorities.

FINANCE, OTHER RESOURCES AND RISK

Finance and other resources

There are circumstances where the Council may be required to pay compensation. It is hard to quantify this risk and it is therefore not proposed to make a specific allocation.

Risk

The Anchor Inn was still trading pre COVID 19. Covid 19 has had a significant effect on the hospitality trade. There is substantial risk that the property cannot be sold at a price acceptable to the owners as a trading premises.

The Property is currently on the market and there is a high chance that listing will result in the need to compensate the current owners.

There is always some risk that the decision in relation to the nomination will be controversial whether it is listed or not.

LEGAL

If a local authority receives a valid nomination, it must determine whether the land or building nominated meets the definition of an asset of community value as set out in Section 88 of the Localism Act 2011:

- (1) A building or other land in a local authority's area is land of community value if in the opinion of the authority —
 - (a) an actual current use of the building or other land that is not an ancillary use furthers the social wellbeing or social interests of the local community, and;
 - (b) it is realistic to think that there can continue to be non-ancillary use of the building or other land which will further (whether or not in the same way) the social wellbeing or social interests of the local community.

Section 88(2) of the Act extends this definition to land which has furthered the social wellbeing or social interests of the local community in the recent past, and which it is realistic to consider will do so again during the next five years.

Under Schedule 2 of the Local Authorities (Functions and Responsibilities) Regulations 2000, as amended, the determination of an appeal against any decision made by or on behalf of the authority can be made by the Executive or another Committee. It is considered that as Cabinet will be the decision maker of the outcome of the nomination, any review received should be considered and referred to the Community Leadership and Partnerships Overview and Scrutiny Committee, which already includes within its terms of reference review of Cabinet decisions.

The Assets of Community Value (England) Regulations 2012 (“the Regulations”) provide procedural detail to give effect to the assets of community value scheme. An earlier report on this subject set out a proposed procedure for dealing with the nomination of Assets of Community Value in accordance with the Regulations and Officers have adhered to the procedure and it is now proposed that Cabinet considers the nomination in accordance

with the procedure.

OTHER IMPLICATIONS

Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.

Crime and Disorder / Equality and Diversity / Health Inequalities / Area or Ward affected / Consultation/Public Engagement.

Assets of Community Value exist in a range of forms and functions. Individual properties may contribute in different ways across the spectrum of implications. The Act and Regulations are intended to increase public engagement.

Area or Ward Affected

Lawford Manningtree and Mistley

PART 3 – SUPPORTING INFORMATION

BACKGROUND

The Act and Regulations, also collectively known and described as Community Right to Bid place a duty on local authorities in England and Wales to maintain a list of land in their areas that is land of community value as nominated by the local community.

The local authority must consider only if the nominated asset meets the criteria set out in Section 88 Localism Act 2011 in that it is satisfied:

- (a) the actual use, not an ancillary one, that furthers social wellbeing or social interest of the local community; and
- (b) that there can continue to be a non-ancillary use, which will further the social well-being or social interests of the local community.

The Council must maintain:

- A list of assets that are held to be of community value; and
- A list of assets identified in unsuccessful nominations.

If land or buildings are placed on the list of assets of community value:

- They remain on the list for five years;
- They are subject to a local land charge;
- If the owner wishes to sell (some exemptions apply) the asset they must notify the Council;
- The Council must notify the nominator and publicise the potential sale;
- All community groups have a six week window to register their intent to bid for the asset;
- If no registration of intent is received the owner may then sell the asset as they see fit (subject to any normal legal processes);
- If intent is registered community groups are then allowed a further 20 weeks (strictly 6 months from the date of the owner's notice) to raise money, reach agreement or otherwise bid for the asset;
- The owner may sell to a community group at any time but is never obliged to do so;
- If no community bid is made or accepted within the six months the owner may then

sell the asset as they see fit;

- No further bid or moratorium can be made for a period of 18 months from the owner's notice; and
- If the owner suffers financial loss as a result of the imposition of either moratorium the Council must compensate the owner.

The provisions of the community right to bid does not:

- Restrict who the owner of a listed asset can sell their property to, nor at what price;
- Confer a right of first refusal to community interest groups,
- Enable a community group to trigger disposal of a site;
- Place any restriction on what an owner can do with their property, once listed, if it remains in their ownership.

Only the owner of the land has the right to seek a review of the decision to include any land on the list in accordance with Section 92 of the Localism Act 2011. This must be done in writing within 8 weeks of the written notice of inclusion of the land in the list.

The table below, based on guidance produced by the Public Law Partnership sets out an overview of what the Act and Regulations intend to constitute as an Asset of Community Value”.

The Act intends to apply to Land and Buildings Where:

1. The main use of the land or building **furtheres the social wellbeing or social interests of the local community** at the present time AND it is realistic to think that this can continue into the near future (even if the type of social use or benefit might change), or;
2. The main use of the land or building **furthered the social wellbeing or social interests of the local community** in the recent past AND it is realistic to think that this could again happen **in the next five years** (even if the type of social use or benefit might change).

The Act does not intend to apply to land where:

1. The main use of the land or **building furthered the social wellbeing or social interest of the local community some years ago** but is not presently in use for a social purpose, or;
2. The land or building has **not recently been, and is not currently, in use for a primarily social purpose**, or;
3. The land or building has been **empty or derelict** for many years and remains so today.

In their Guidance Public Law Partnership provide some helpful interpretation of these terms:

“This could apply to a broader set of activities and not just cultural, recreational and sport interests as provided by the Act. Working with local communities it could include: any land or building where the main purpose is for the provision of public services for education, health and wellbeing or community safety e.g. nurseries, schools, children's centres, health centres, surgeries, hospitals, day care centres, and residential care homes. Sport, recreation & culture e.g. parks and open green spaces, sports and leisure centres, libraries, theatres, museums and heritage sites, cinemas, swimming pools. Community services e.g. community centres, youth centres, and public toilets. Any economic use which also provides important local social benefits e.g. village shops, pubs, markets.

“What does it mean “realistic to think that this can continue into the near future”? For the use which is **currently ongoing**, the working assumption should be that the present use can continue into the future, unless the local authority is able to identify evidence that is unlikely to be the case. In other words where the asset is presently in social use there should be a **presumption of continued viability**, unless clear evidence suggests otherwise. For a **social use which has lapsed** and needs to be re-established the local authority will need to take a view on the realism of re-establishing this. A new approach can help to re-establish services that were previously not viable.

Whilst COVID-19 restrictions including socially distancing are having a huge impact on the ability of pubs to function safely and viably, the ACV Legislation does not currently address recent COVID-19 restrictions. Therefore when considering if the nominated asset meets the criteria only the issued legislative guidance can be applied.

CURRENT POSITION

The Nomination Form has been submitted by Mistley Parish Council (attached at Appendix A), and contains at B4 and B5 reasons why the nominators consider that the building is of community value and how the land could be acquired and used in the future.

The nomination states that the building is the last community service for Mistley and closure would have an emotional impact that would seriously affect the community infrastructure. The nominator also states they seek the opportunity and time to prepare a bid and business plan to buy or take over the pub. It should be noted that the property is currently being marketed for sale and has been for some time which is also detailed at Appendix B

In accordance with the Regulations the landowner has been notified and they have made representation (attached and partially redacted at Appendix B) that includes the fact the owner of The Anchor Inn has applied to Tendring District Council for Planning Permission to convert and demolish part of the structure.

Given the length of time the property has been on the market officers have asked the nominator what progress they have made with the proposals to purchase and operate the property as outlined in their nomination. The following response has been received:

“The Parish Council thought that it could not progress with its business plan until such time as the asset of community value application has been approved.”

The Council has received some feedback from the local community but it would wish to consult more fully by way of a Survey Monkey or similar.

It is recommended that the building does meet the criteria set out in Section 88 (2) (a) of the Act:

there is a time in the recent past when an actual use of the building or other land that was not an ancillary use furthered the social wellbeing or interests of the local community

The Nomination request is being sought with the stated intention of continuing the main use which furthers the social wellbeing or interests of the local community.

Taking the above into account it is recommended that the matter for consideration is

whether the building nominated does meet the criteria set out in Section 88 (2) (b) of the Localism Act 2011, specifically:

it is realistic to think that there is a time in the next five years when there could be non-ancillary use of the building or other land that would further (whether or not in the same way as before) the social wellbeing or social interests of the local community.

Planning application has been made for the conversion of the building to residential use. In the current climate it seems unlikely that a purchaser will pay the current asking price for the premises if the applications are refused. Accordingly the result of a refusal may be that the price has to be lowered to a level at which some use within the current planning status becomes viable. Conversely it would appear that approval would potentially result in a higher value that could make such use unviable.

At the time of writing no planning decision has been published and the building may not be converted. Accordingly it is recommended that the criteria are met and that the building should be listed as an Asset of Community Value.

It may be that a planning permission or successful appeal would be a material change of circumstances that prompts a listing review.

BACKGROUND PAPERS FOR THE DECISION

Non-statutory advice note for local authorities produced by DCLG Community Right to Bid – October 2012

APPENDICES

Appendix A – Nomination Form (Redacted)

Appendix B – Representation on behalf of owners (Redacted)

LOCALISM ACT 2011

THE COMMUNITY RIGHT TO BID

NOMINATION FORM

A: You and your organisation

Your Name
Your Organisation (full official name) <i>Mistley Parish Council</i>
Your position in the organisation <i>Parish Clerk</i>
Organisation address (including postcode)
Daytime telephone no.
Email address
How and when can we contact you?*
By email, phone and post. <i>Monday – Friday 9am – 5pm</i>

*other correspondence address or preferred way or time for us to contact you

Type of organisation

Description	Put a cross \times against all those that apply	Registration number of charity and/or company (if applicable)
Neighbourhood forum		
Parish Council	X	
Charity		
Community interest company		
Unincorporated body		
Company limited by guarantee		
Industrial and provident society		

Unincorporated bodies only:

In the case of an unincorporated body, at least 21 of its members must be registered to vote in the Tendring District or an adjoining authority. If relevant, please confirm the number of such members. If they are registered to vote in the area of a neighbouring local authority, rather than in Tendring, please confirm which area that is.

N/A

Local connection

Your organisation must have a local connection, which means that its activities are wholly or partly concerned with the administrative area of Tendring District Council or a neighbouring local authority. Please explain what your organisation's local connection is.

Mistley Parish Council is the first tier of local government and the level of government which is closest to its electorate and at the grass-roots of the local community. The Parish Council is also statutorily consulted on all planning and development in Mistley by Tendring District Council, i.e. the LPA (local planning authority).

A6 Distribution of surplus funds (certain types of organisation only)

If your organisation is an unincorporated body, a company limited by guarantee, or an industrial and provident society, its rules must provide that surplus funds are not distributed to members, but are applied wholly or partly for the benefit of the local area (ie. within the administrative area of Tendring or a neighbouring local authority). If relevant, please confirm that this is the case, and specifically which area this applies to.

N/A

A7 More about your organisation

What are the main aims and activities of your organisation?

Mistley Parish Council is a local authority that makes decisions on behalf of the people in the Parish. It is the first tier and the most local level of government closest to the community. There are 11 volunteer Parish Councillors and a part-time paid Parish Clerk/Finance Officer and a part-time paid Warden/Cleaner.

The Council ensures that the facilities and land under its ownership are managed efficiently for residents and visitors to enjoy and strives to improve its services and facilities for the benefit of residents. The Council continues to endeavour to make a difference in our Community, whilst being open and transparent in its working.

The Parish Council is often the first point of contact for local people. The Parish Council aims to “sign-post” residents to the most appropriate level of local government. It has an important role to play in promoting the Village, representing its interests and supporting the work of different groups in the community.

A8 Your organisation’s rules

Please send us a copy of the relevant type of document for your organisation, and put a cross in the next column to indicate which one this is	X
Memorandum and Articles of Association (for a company)	
Trust Deed (for a trust)	
Constitution and/or rules (for other organisations)	X

Part B: About the land or building(s) you are nominating

B1 Description and address

What it is (eg. pub, local shop)

Local Pub. The only Pub in the Village.

Name of premises (eg. Royal Oak / Littletown stores)

The Anchor Inn.

Address including postcode (if known)

1 Anchor Lane, Harwich Road, Mistley, Essex, CO11 1ND.

B2 Sketch plan

Please include (here or on a separate sheet) a sketch plan of the land. This should show:-

- The boundaries of the land that you are nominating
- The approximate size and position of any building(s) on the land.
- Any roads bordering the site.

Details attached.



B3 Owners and others with an interest in the building or land

You should supply the following information, if possible. If any information is not known to you, please say so.

	Name(s)	Address(es)
Names of all current occupants of the land		<i>Same as B1. Yes.</i> <i>The Anchor Inn, 1 Anchor Lane, Harwich Road, Mistely, Essex, CO11 1ND.</i>
Names and current or last known addresses of all those owning the freehold of the land (ie. owner, head landlord, head lessor)		
Names and current or last known addresses of all those having a leasehold interest in the land (ie. tenant, intermediate landlord, intermediate lessor)		

B4 Why you think the building or land is of community value

Note that the following are not able to be assets of community value:-

- *A building wholly used as a residence, together with land “connected with” that residence. This means adjoining land in the same ownership. Land is treated as adjoining if it is separated only by a road, railway, river or canal.*
- *A caravan site.*
- *Operational land. This is generally land belonging to the former utilities and other statutory operators.*

Does it currently further the social wellbeing or social interests* of the local community, or has it done so in the recent past? If so, how?

The owner of the Public House has asked the Local Planning Authority if the Public can be demolished and two residential dwellings be erected on this site. However, there is no evidence to demonstrate that the public house has being marketed and no evidence of the business being unviable under an improved business case – possibly with a different public house owner. The change of use would be a loss of amenity in the community as this is the only public house in the Village.

Could it in future further the social wellbeing or social interests* of the local community? If so, how? (This could be different from its current or past use).

Community ownership plays an important role because if this much-loved pub closes there will be no pub in the Village and it will be the last community service for Mistley and will mean a huge loss. Closing the pub will have an emotional effect that will seriously affect the future economy and community infrastructure with nowhere to meet and no focus for the community life and there will be no community cohesion.

**These could be cultural, recreational and/or sporting interests, so please say which one(s) apply.*

B5 How could the building or land be acquired and used in future?

If it is listed as an asset of community value, community interest groups (not just limited to your organisation) will get the opportunity to bid for it if it comes up for sale. Please set out how you think such a group could fund the purchase of the building or land, and how they could run it for the benefit of the community.

Mistley Community is a strong force and it brings creatively, business acumen and hands-on support, backed by and led by the Parish Council. The Community will pull together and own and run its own pub and take its plans through to fruition.

The opportunity to nominate this asset to be included on a list of 'Assets of Community Value', will pause the sale and demolition of a successfully listed asset for six-months, giving our community the opportunity and time to prepare a bid and get a business plan together. This will give us some time to gather resources to bid to buy or take them over the pub.

Holmes & Hills LLP Solicitors
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also at
Halstead, Sudbury
Tiptree and Coggeshall

Tendring District Council

By [Email: gburden@tendringdc.gov.uk](mailto:gburden@tendringdc.gov.uk)

Your ref
Our ref DW/HS/. 006118.0013
Date 11 September 2020

Dear Sirs

The Anchor Inn Harwich Road Mistley Essex CO11 1ND

We write in response to your letter of 2 September to REDACTED of The Anchor Inn. Thank you for advising us that you have received a Nomination for the above property under the Community Right to Bid Provisions within the Localism Act 2011.

Our client objects to this Nomination. Further, as we shall demonstrate, there is no evidence upon which to justify the designation of The Anchor Inn as a building of community value. Indeed, it is not. The relevant statutory criteria are not met.

You will be aware that whether land is of community value is dealt with at Section 88 of the Localism Act 2011. It is unclear to us at least from the application and your letter whether you consider subsection (1) is engaged. We say this because, to all intents and purposes, no actual current use of the building is occurring.

However, even if there was an actual use, that use must be furthering the social wellbeing or social interest of the local community. In this regard the local community has made little or no use of the building for many years. It has not utilised the facility to assist with maintaining its viability as a public house. The applicant cannot therefore now maintain that the building is furthering the social wellbeing or social interest of the local community.

Furthermore, you also have to be satisfied under Section 88 (1) that it is realistic to think that the use of the building as a public house can continue. The business has been unviable for a number of years, despite the considerable efforts of the landlord in sponsoring various darts and sports teams. Moreover, there has also been considerable efforts to sell the property, but no purchase has come forward. This is indeed why planning permission is now being sought for the change of use to residential. We enclose a letter from our client's

Partners: Mark Cornell, Jason Brady, Rebecca Mason, Steven Hopkins, Carol Toulson, Samuel Bawden, Philip Davies (*non lawyer*), Keeley Livingstone, Michael Harman
Consultants: David Whipps, Michael Wright
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accountant and the agents who are responsible for seeking to find a purchaser of the property, both of which accompany our client's planning application.

Turning to Section 88 (2) which will be engaged if you consider there is no current use, there again the building has not in the past been used to further the social wellbeing and social interest of the local community and further it has to be realistic that such a use is likely to continue for at least a period of 5 years. Here again the reality of the position is that there is considerably less demand in the neighbourhood for public houses. This is not a phenomenon unique to Mistley/Manningtree, but throughout the Country.

We are in any event at a loss to understand how the applicant can suggest that the building is of community value. Apart from the matters mentioned above, it must be born in mind that the Thorn Hotel itself is only 375m away and there are other public houses/other similar facilities within Manningtree, all of which within a reasonable walking distance. In short, there are plenty of licenced premises within the area to serve the community. It could also be said that by reducing the overall number of facilities it actually helps to maintain the viability of those remaining in a diminishing market.

It is interesting that the applicant has sought to make this nomination request at this point in time. It is highly likely that it was well known to the applicant that the premises were being marketed for sale and if the applicant was interested as they now suggest, they could have expressed an interest at that point in time and sought to negotiate the purchase of the property. The inference to be drawn is that the applicant simply seeks to delay either the grant of planning permission and/or the change of use of the premises.

We would also ask you to note that the application in itself is not entirely accurate. The applicant for example refers to The Anchor as "this much-loved pub" and that this is the only pub in the village. With respect, the applicant is wrong in both respects. If the pub was much loved, it would have been used and supported by the community. It has not been. Further, as mentioned already, it is not the only public house within the village.

The applicant also appears to be under the impression that under the existing planning permission, there is an attempt to demolish the entire premises. This is not correct. The bulk of the dwellings will remain and all that needs to be demolished is some later single storey additions. It is likewise wrong for the applicant to assert that there has been no marketing exercise.

In conclusion therefore we are entirely satisfied that the applicant has not made out the case for this building to be listed as a building of community value. Accordingly, we ask that the nomination be rejected.

Finally, we note that you are minded to refer this matter to an appropriate committee in due course and we should be grateful if you could let us know when this is to happen and to also let us have a copy of any committee report.

Yours faithfully



HOLMES & HILLS LLP

Redacted
The Anchor Inn
Harwich Road
Mistley
Essex
C011 1ND

21/05/2020

Dear Redacted

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Re: Anchor Inn, Mistley, Essex.

I am writing to confirm the current position with regard the marketing of your property the Anchor Inn, Christie & Co commenced marketing of the property mid July 2018 at a freehold asking price of £425,000 to include the trade inventory with stock & glassware at separate valuation. Detailed sales particulars were produced and an entry made on our website at www.christie.com where we have over 70,000 registered users, As well as the details being emailed to circa 1,650 applicants registered on our extensive applicant data base with similar site requirements we also drive traffic to our website through trade press adverts such as in the Morning Advertiser,

This activity has continued with the ongoing marketing to date resulting in around 10 — 15 applicants viewing the sales details online per week resulting in a number of conversations with potential applicants seeking more information regards the property. In addition all potential applicants were made aware of the potential for alternative business uses that may be suitable for the property subject to the necessary planning and any applicants who showed further interest were encouraged to make their own enquiries to the local council. Unfortunately this activity has not resulted in any offers for the business despite our best efforts and matters have not been helped since 2016 by the UK's economic position as a result of the EU Referendum and the uncertainty in the following years throughout the licensed and commercial property markets. In addition the recent coronavirus pandemic has seriously affected the market since early March and will have ongoing ramifications for some time to come, with some operators talking of less than 70% of pubs actually re opening once allowed to.

I trust this covers matters — any queries please let me know.

RE: THE ANCHOR INN, HARWICH ROAD, IVIISTLEY, MA_NININGTREE, ESSEX,
C011 1ND

We have acted for the owners of the above premises for over 10 years,

During this period our clients have made every effort to make a success of the Public House.

The Public House has incurred losses for each of the last 8 years, despite every effort being made to make the business successful.

In December 2019 the business was dc-registered for VAT due to the declining turnover.

The Public House has now been shut for nearly 2 months due to the Coronavirus Pandemic with no indication of being able to re-open in the foreseeable future.

In view of the above, we do not believe that the Public House is viable and an alternative use should be sought.

Yours faithfully,

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By virtue of paragraph(s) 3 of Part 1 of Schedule 12A of the Local Government Act 1972.

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