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 districts 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 tax-payers 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 is 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 turn-around.

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 than 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.