



PLANNING COMMITTEE: 12th November 2020

REPORT OF HEAD OF PLANNING & BUILDING CONTROL

Walsall response to Planning White Paper: Planning for the Future

1. PURPOSE OF REPORT

To confirm to Committee that the Walsall Council response to the proposals included in the Planning White Paper: Planning for the Future consultation from Government was submitted on 26th October 2020 following endorsement by Planning Committee at their meeting on 15th October 2020. The full response is appended to this report.

2. RECOMMENDATIONS

That Committee notes the Walsall response to the White Paper submitted by the Head of Planning & Building Control and the Head of Regeneration, Housing and Economy.

3. FINANCIAL IMPLICATIONS

None arising directly from this report however the consultation proposals will potentially have implications on Local Planning Authorities financial resources and these are considered as part of the consultation response.

4. POLICY IMPLICATIONS

The Planning White Paper will form the basis for the future direction of national and local planning policy and procedures.

5. LEGAL IMPLICATIONS

The Council response to the Planning White Paper will be considered by Government in the formation of future legislative changes in planning.

6. EQUAL OPPORTUNITY IMPLICATIONS

None arising from the report.

7. ENVIRONMENTAL IMPACT

None arising from the report.

8. **WARD(S) AFFECTED**

All.

9. **CONSULTEES**

Planning Policy
Development Management
Strategic Housing
Building Control
Local Highway Authority
Public Health
Tree Protection

10. **CONTACT OFFICERS**

Alison Ives: Head of Planning & Building Control
Simon Tranter: Head of Regeneration, Housing and Economy

11. **BACKGROUND PAPERS**

All published.

Alison Ives
Head of Planning and Building Control

PLANNING COMMITTEE: 15th October 2020

Consultation on Planning White Paper: Planning for the Future

Planning for the future – Government Consultation **Walsall Council Response**

Ministerial Foreword

Whilst recognition of the complex nature of the current UK planning system is welcomed, the biggest ongoing issue facing Local Planning Authorities (LPAs) over the last decade has been a lack of proper investment and resources to deliver an effective planning system. We would therefore ask that the government ensures that LPAs are adequately resourced and armed with sufficient investment to deliver the modern, technology-based approach being promoted in this white paper.

It is unclear how the aims of the three pillars would help to achieve the government's 'levelling-up' agenda in spreading prosperity across the UK. The current proposals due to their over-simplification and nationalisation of the planning system have the potential to put areas like the Black Country at a disadvantage with lower land values, higher remediation costs and overall lower viability.

People travel and move around in our urban and rural communities in order to satisfy a need; work, health, leisure, this is equally important for goods and services. It is important to understand how these activities are distributed over space in both a local and regional context. A good transport system and network widens the opportunities to satisfy and deliver these needs. A poor system restricts options and limits economic and social development. In looking at Highways and Transportation good planning is currently achieved through good practice, collaborative framework, skilled professionals using good levels of communication with decision makers to find common ground and inevitable compromises which helps support a good planning system. Anything that looks to value a limited range of problems under specific conditions has to be challenged if as professionals we consider this would have a negative impact on the quality of service we provide and potentially compromise the ability to deliver quality decision making.

We consider that the proposed reforms are a missed opportunity and ignores key aspects of the planning process in particular that of Statutory Consultees and the benefit their work and recommendations make to delivering quality, sustainable communities, and providing essential links to allow people to live, work and travel safely.

It is also recommended that the government priorities the review of 'Shared Spaces' which is fundamental to ensuring safe access for disabled people and safe and free movement within developments. The outcome of this review should be reflected in these proposed reforms and in the emerging Manual for Streets 3.

Introduction

First - Plan-Making

In terms of the proposal to simplify Local Plans and zoning, the suggestion of automatic outline consent is considered does not necessarily give any more certainty over and above the allocation of land within the current Local Plan framework. The proposed zoning of areas is considered to be an over-simplification. In areas like Walsall and the Black Country, with remnants of industrial heritage along with areas that have been partly regenerated over time, such zones are not likely to have clear and definitive boundaries, rather lots of smaller areas that overlap / intertwine with each other. We consider that the guiding principles of the proposed three categories (growth, renewal, protected) could

instead be applied to individual sites.

Further to this, the proposed inclusion of the Green Belt within the 'protected' area category fails to recognise the close relationship of this land in, around, and between other urbanised areas. This approach risks the erosion of the Green Belt which should be retained as a specific designation in its own right, and should continue to be subject to the current policies and tests set out in the NPPF and Local Plans.

A nationalised approach to the use of development management policies and a design code should ensure that they do not become too generalised with the potential for design to become homogeneous thus resulting in a loss of sense of place and identity within our existing communities. They should also not be so stringent that they stifle innovation and prevent the adoption of local detailed policies and design codes to reflect and enhance the communities they serve. Recognition would also be required of areas with lower land values, and overall viability of development, when setting national standards and policies to ensure that all parts of the UK benefit equally from the regeneration benefits of bringing forward appropriate development.

Second - Digital-First Approach

Whilst modernisation of the planning system is welcomed, the proposed use of social media and digital platforms by communities to comment on proposals can be very difficult to monitor and manage multiple sources and to extract comments. Whilst these platforms could all be used to signpost to a single platform or website, our experience of this approach in previous stages of Local Plan preparation has been that interested parties do not wish to be taken to other platforms, and wish to make comments at the initial point of receiving the information. Further consideration should be given to this along with potential for funding to LPAs to invest in any necessary technology and the back-office management of such new processes.

Significant investment has been made by Council's in recent years in planning software and any changes needed in connection with the proposal for automated processes should therefore be made possible through additional government funding to retain and enhance existing systems. Replacement of planning software and historic data migration brings with it risks of data corruption, staff re-training, re-mapping of internal corporate processes and links with other systems and services across a Local Authority and its partners. This all has the potential to result in significant delays to service delivery and should therefore be avoided if possible.

The government should promote and encourage the use of digital technology to SME's in the development industry to assist in taking forward this proposal, and ensure that barriers are removed in terms of cost and training / education.

Third – Focus on Design and Sustainability

Fundamental change is needed in the way we design, fabricate and build homes to mitigate and future-proof against climate change. The reforms should therefore seek to enhance the modular / alternative sustainable house building sector in tandem and place clear and realistic targets for developers to achieve within any national development management policies, also taking account of local viability factors.

A good example of this is the timber frame manufacturing facility in Walsall which produces over 1,000 closed panel timber homes per year which are more energy efficient

and quicker to build than traditional houses. This site, and the overall building approach, was visited and endorsed by the previous Housing Minister Kit Malthouse in 2018.

Fourth – Reform of Developer Contributions

The current dual process of Community Infrastructure Levy and Section 106 is burdensome, complex and still fails to adequately bridge the funding gap to secure the strategic infrastructure required to support new development. It is therefore right that the government considers the use of a single levy on development in the future.

However, the Section 106 process has been long-held to be a useful tool by all relevant parties as it enables negotiations to take place around local, and site-specific, viability and site conditions. This is particularly important in areas like Walsall and the Black Country which have lower land values, higher remediation costs and overall lower viability than other parts of the Country.

We strongly oppose the proposed setting of rates at a national level which would not be able to take account of these localised matters.

Greater investment in strategic infrastructure is required at a national level by government along with greater promotion and incentivised investment by developers in sustainable infrastructure to provide an infrastructure network that is able to support, and speed up, the delivery of future growth and development. This could take the form of a pro-active approach by the government who would make the initial investment in the necessary strategic infrastructure across the Country in liaison with each LPA. A charge / tax could then be spread across all development sites identified in Local Plans which becomes payable at the time of / during phases of each development.

Fifth – Land Supply

Significant emphasis is placed in the white paper on the delays incurred by the planning system in delivering the homes, and overall growth, required in the UK. However, there is a distinct lack of reference about the substantial number of positive planning decisions made by Local Planning Authorities which do not get built-out by developers and landowners, which in large part is due to land-banking. This is a significant issue which urgently requires to be addressed by the government alongside any reforms to the planning system.

A More Engaging, Equitable and Effective System

The proposed replacement of physical site notices and newspaper articles with a digital approach has the potential to exclude some members of the community who may only use certain social media platforms, or who do not have access to internet sources of information at all. This would therefore place an additional duty on LPAs to carry out multiple forms of consultation including digital and physical notices who are already under resourced, and would therefore place further resource implications on LPAs without the proper investment and resources.

Pillar One – Planning for Development

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

The suggestion of automatic outline consent as considered does not necessarily give any more certainty over and above the allocation of land within the current Local Plan framework. The proposed zoning of areas is considered to be an over-simplification. In areas like Walsall and the Black Country, with remnants of industrial heritage along with

areas that have been partly regenerated over time, such zones are not likely to have clear and definitive boundaries, rather lots of smaller areas that overlap / intertwine with each other. We consider that the guiding principles of the proposed three categories (growth, renewal, protected) could instead be applied to individual sites.

Further to this, the proposed inclusion of the Green Belt within the 'protected' area category fails to recognise the close relationship of this land in, around, and between other urbanised areas. This approach risks unclear Green Belt boundaries and erosion of the Green Belt which plays an important role in separating urban areas and in retaining local identity of existing communities. The Green Belt should be retained as a specific designation in its own right, and should continue to be subject to the current policies and tests set out in the NPPF and Local Plans.

Any new framework for preparing Local Plans should require an integrated approach to embed health and wellbeing outcomes to plan for positive change to address physical health, obesity, mental health and social isolation. National guidance should require that any Local Plan reflects the need for 'homes' rather than housing and that it should continue to secure satisfactory access to green space, local transport, and wider community infrastructure.

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

A nationalised approach to the use of development management policies and a design code should ensure that they do not become too generalised with the potential for design to become homogeneous thus resulting in a loss of sense of place and identity within our existing communities. They should also not be so stringent that they stifle innovation and prevent the adoption of local detailed policies and design codes to reflect and enhance the communities they serve. Recognition would also be required of areas with lower land values, and overall viability of development, when setting national standards and policies to ensure that all parts of the UK benefit equally from the regeneration benefits of bringing forward appropriate development.

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

Removal of the Duty to Cooperate does not achieve strategic planning across the country which currently compels local authorities to work together to address cross boundary issues, particularly housing delivery. There would be no mechanism for housing and employment land in constrained urban areas to be met elsewhere if needed and places pressure to release locally important land in potentially unsuitable locations (e.g. Green Belt) for development.

The proposed use of a single statutory sustainable development test would conflict with the aims of NPPF Paragraph 110. Densification of land use is likely to compromise the priority for pedestrian and cycle movements, access and address the needs of people with disabilities and reduced mobility, and have a negative impact on creating safe, secure and attractive places. Ultimately, this would result in less sustainable forms of development in future.

Land Use should encompass the wider needs of the development and surrounding community, to include opportunities to promote and deliver sustainable transport modes, safe and suitable access and take account of the impact from the development on the transport network and highway safety.

Removal of the Duty to Cooperate would restrict the ability to plan strategically, including effective engagement with neighbouring Authorities and ensuring resilience over the wider network.

Health and wellbeing should be an integrated consideration as part of any sustainability test.

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

It is considered that the Duty to Cooperate should remain, or the provision of an alternative process which provides a similar / stronger mechanism to require collaboration between local authorities to ensure the continued delivery, and strategic planning, of growth and infrastructure.

It is unclear whether the role of Joint Strategic Needs Assessment (JSNA) would continue. This is considered to be an important collaborative process between local authorities and Clinical Commissioning Groups to assess current and future health, care and wellbeing needs of the local community to ultimately inform local decision making. It is unclear how the proposed reformed planning system would effectively monitor the success of Local Plans in achieving positive change and outcomes in this regard.

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?

The suggestion of automatic outline consent is considered does not necessarily give any more certainty over and above the allocation of land within the current Local Plan framework.

This proposal, in particular the preparation of Local Development Orders, Master Plans and Design Codes in parallel with a new Local Plan would place significant additional pressure and resource demands on Local Authorities. The proposed timeframe of 30 months is considered insufficient without the proper investment and resourcing of LPAs and Planning Policy teams.

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

The presumption in favour of development is considered reflects the existing approach set out in the NPPF.

The proposal for automatic consent in renewal areas is likely to be most relevant to built-up urban areas like Walsall and the Black Country. These areas are often in mixed use (including industrial heritage) with building types and uses varying substantially within differing communities, and often very close to other more sensitive uses i.e. residential. In our experience, this results in much more detailed assessments being necessary to ensure any development in these areas are acceptable, and should not therefore benefit

from automatic or fast-tracked consents.

The current fees set by the government for Prior Approval applications do not reflect the necessary time spent by LPAs on such applications. The proposed increase in the use of Prior Approvals, when combined with the recent revisions to the Use Class Order which will also reduce planning application fee income, has the potential to further reduce LPA income thus placing additional resource and budget pressures on authorities. This all has the potential to cause unnecessary delays in the planning process.

Proper investment and resourcing of LPAs is necessary along with the increase in Prior Approval fees.

The proposal for a faster planning application process would also be reliant on the proper resourcing of key / statutory consultees to ensure that they are able to respond to LPAs within a reasonable timeframe. This is particularly important where technical matters remain to be addressed as part of such applications.

The preparation of Local Development Orders in parallel with a new Local Plan would place significant additional pressure and resource demands on Local Authorities. The proposed timeframe of 30 months is considered insufficient without the proper investment and resourcing of LPAs and Planning Policy Teams.

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

Significant investment has been made by Council's in recent years in planning software and any changes needed in connection with the proposal for automated processes should therefore be made possible through additional government funding to retain and enhance existing systems. Replacement of planning software and historic data migration brings with it risks of data corruption, staff re-training, re-mapping of internal corporate processes and links with other systems and services across a Local Authority and its partners. This all has the potential to result in significant delays to service delivery and should therefore be avoided if possible.

The development of any datasets need to be aligned with Public Health and NHS datasets and systems to ensure local planning functions reflect the health and wellbeing needs of local communities.

Whilst the proposed standardisation of technical supporting information may be suitable for some smaller and less constrained sites / development schemes, this approach would not be able to effectively take into account larger / highly constrained or contaminated sites and areas, which vary significantly. Discussion and negotiation on the content, and level, of technical supporting information should therefore remain at a local level to allow for necessary engagement with the Council's experts and key consultees.

The proposed nationalisation of a Council's scheme of delegation, and increased level of delegation to Planning Officers on the determination of planning applications, would remove the ability of Local Authorities to set the level of delegation under their constitution to reflect localised community interest in each part of England. This has the potential for communities to feel like they are unable to have their say, or influence, individual development proposals. This should therefore be a recommendation for each LPA to consider, rather than a mandatory requirement if taken forward.

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

The proposed interactive, map-based Local Plan is considered would be of benefit to members of the public and others wishing to access site related information and policies on a spatial basis, and to Development Management officers when assessing applications or giving formal advice to developers / others about the potential for development of sites and geographical areas.

As mentioned further above, any new digital systems or platforms to facilitate this approach should seamlessly integrate with the GIS and planning systems already in place within authorities to avoid additional cost, resource implications and delays to overall service delivery.

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

The preparation of Local Development Orders, Master Plans and Design Codes in parallel with a new Local Plan would place significant additional pressure and resource demands on Local Authorities. The proposed timeframe of 30 months is considered insufficient without the proper investment and resourcing of LPAs and Planning Policy teams.

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

No. To ensure effective engagement in any new Local Plan preparation process, and to achieve some of the government's aims in simplifying the planning system, it is considered that more detailed and localised policies and standards should instead be included (where appropriate) within the newly proposed Local Plan and Local Design Code as part of the overall engagement with communities at this stage of the process.

To ensure effective engagement, and to allow for the preparation of such detailed policies / standards it is considered that a period exceeding 30 months should be provided when preparing new Local Plans.

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?

Given that the proposed planning reforms aim to give more certainty as to the acceptability of the principle of development at the outset, a shorter standard timeframe for commencement should be imposed on developers of 1 year for this type of development. This would help to focus the submission of planning applications at a stage when land assembly / purchase, funding, and other matters have been resolved / or are at an advanced stage, which otherwise often cause delays in the build-out following the issuing of permission.

The current exemption in the fee regulations which allows a 'free go' within 12 months should be removed altogether. Re-submissions place significant resource and cost burdens on LPAs which is not reflected in the current lack of any supporting fee. Removal of this exemption would help to focus the submission of 'oven-ready' development

schemes at the outset, rather than over-reliance on the ability to make changes, or save / extend the life of permissions, for free following receipt of a planning permission.

Significant emphasis is placed in the white paper on the delays incurred by the planning system in delivering the homes, and overall growth, required in the UK. However, there is a distinct lack of reference about the substantial number of positive planning decisions made by Local Planning Authorities which do not get built-out by developers and landowners, which in large part is due to land-banking. This is a significant issue which urgently requires to be addressed by the government alongside any reforms to the planning system.

Extensions of time provide a useful process to give flexibility, and certainty to a customer and helps to focus discussions between the applicant and the LPA on the key outstanding matters to be addressed prior to reaching a conclusion. Removal of the use of extensions of time would lead to an increase in refusals and in the subsequent number of lodged appeals. Extensions of time should not be removed.

Pillar Two – Planning for Beautiful and Sustainable Places

Whilst it is understood that separate consultation is planned this year regarding the aspiration to secure tree-lined streets for all new development, we set out some initial comments on this here as follows. The aspiration is considered to be positive, however we would have reservations about a blanket mandatory requirement for all new streets to be tree-lined. This may not be practical in every situation, and may not reflect the local vernacular i.e. where development needs to integrate with existing urban areas. Furthermore, this proposal has the potential to affect the viability of development schemes and this should be considered.

Any changes to the NPPF should seek to ensure that developers are encouraged / expected to plan for the enhancement of the natural environment in a holistic way by promoting environmental recovery and long-term sustainability through any tree-lined streets along with other measures including open spaces and wildlife corridors where possible, and taking account of local viability, site constraints and local vernacular.

‘Beautiful places’ term needs to be clearly defined. This has the potential of being subjective and open to interpretation and future challenge.

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

Fundamental change is needed in the way we design, fabricate and build homes to mitigate and future-proof against climate change. The reforms should therefore seek to enhance the modular / alternative sustainable house building sector in tandem and place clear and realistic targets for developers to achieve within any national development management policies, also taking account of local viability factors.

A good example of this is the timber frame manufacturing facility in Walsall which produces over 1,000 closed panel timber homes per year which are more energy efficient and quicker to build than traditional houses. This site, and the overall building approach, was visited and endorsed by the previous Housing Minister Kit Malthouse in 2018.

Adapting to climate change and maximising environmental benefits will not be achieved just through accelerated high quality development, but also through changing people's

habits and attitudes, inclusivity and connectivity and well designed, sustainable infrastructure.

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

Sufficient flexibility should be possible within any Design Code to ensure each new development has the opportunity to reflect the local vernacular (which vary significantly within our existing communities) rather than the potential homogeneous appearance that may otherwise arise.

Any guidance and codes should reflect the need to secure “covid” secure design of future developments, and to recognise increased need / demand to work from home including space, connectivity of people and environments to support working practice.

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?

The requirement for each authority to have a Chief Design Officer places further resource and budget implications on Local Authorities who are already under-resourced. Design and place-making are key components of modern planning higher education courses, and it is considered that further / refresher training on this should instead be given to existing Development Management officers as the day-to-day key decision-makers who are familiar with the communities that they serve.

This could add costs on to development or result in delays to delivery of schemes where negotiations are required, and has the potential to result in issues when any “value engineering” exercise is carried out once a scheme has consent.

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

Yes, and this should include weight given to Local Design Codes and local design-related policies to ensure that any sites that meet local standards are more able to benefit from any relevant grant funding to incentivise adherence.

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

The proposal for pre-approval of ‘popular and replicable designs’ via permitted development is considered unlikely to be able to sufficiently take into account the vastly differing character of areas and communities within Local Authority administrative boundaries and could compromise the integration of necessary highway works and the delivery of a safe and accessible highway network. Furthermore, any additional provisions of Prior Approval in this regard has the potential to place resource implications on LPAs.

Such proposals would still require an LPA to check whether it aligns with any design codes / policies and would be best considered via a planning application process and the accompanying relevant fee (albeit with a shorter decision timeframe where the applicant can clearly demonstrate how it aligns).

The absence of an appropriate assessment by the LPA and key consultees for these

developments is likely to result in an increase in enquiries from members of the public and place further pressure on already under-resourced Planning Enforcement teams to investigate post-construction.

The proposed shift in this consultation towards increased enforcement against non-conforming built development would be a backwards step resulting in a reactive planning system seeking to retrospectively rectify poor design and build quality. Design is an integral part of modern construction methods, and cannot easily be revised in isolation retrospectively. Design must therefore continue to be considered in a pro-active way by negotiation with LPAs at the outset to avoid the incursion of additional costs and resources by the developer and LPA, and to avoid harm to the built environment.

The proposed fast-track approach and increased use of prior approvals and permitted development is considered would result in lower quality development, homogenous design and would compromise necessary supporting infrastructure. It is also unclear whether there would be any restrictions on sensitive sites, areas and heritage assets for example.

An example of poor-quality unsustainable homes arising from reduced input from planning professionals and key consultees is the current policy on creating Houses of Multiple Occupancy (HMO's). HMO's are often of very poor-quality design, do not integrate well with local communities and fail to include satisfactory parking or highways improvements.

Proposal 15: Mitigating and adapting to climate change and maximising environmental benefits

Whilst a simpler, effective approach to assessing environmental impacts is welcomed, the proposal to make the NPPF the starting point for development management decisions instead of the Local Plan goes against the long-held approach in the planning system that the statutory status of the development plan is the starting point for decision making, and has the potential to hinder local democracy.

Thus far, the role that the planning system has played in combating climate change has been extremely limited. Considering the level of scientific certainty that has been demonstrated, it is clear that more needs to be done. A national unified approach via the NPPF has the potential to affect change, but this needs to stride for considerably more ambitious targets. It should stress the importance of creating greener homes and producing sustainable infrastructure and place increased regulatory criteria on developers through Building Regulations to require the use of alternative energy efficient designs and building materials.

This should be incentivised through government grants and potentially bolstered by funds secured through Section 106 Agreements and the proposed reformed Levy. Developers should contribute towards offsetting the carbon footprint of the development in a variety of ways (list is not exhaustive):-

- The use of more sustainable construction materials, for example by using pulped recycled paper or sheep's wool for roof insulation (both low-cost, effective and renewable alternatives), or locally sourced timber from sustainably managed forests;
- The requirement of all new dwellings to feature electric car charging points (the Black Country is already doing this through policies in the joint core strategy and supplementary guidance).
- A proportion of dwellings within a housing estate to be outfitted with roof-mounted solar panels.

- Utilise 'Green-roofs' (these provide increased heating insulation, provide a habitat to some wildlife and contribute to the aim of 'beautiful buildings' - take Singapore for example).
- For larger housing schemes, an integrated heating system for the whole estate, potentially drawing from a waste incineration system. This reduces reliance on existing waste collection services, reduces landfill uses, provides a more energy efficient heating system than a separate boiler for each household and creates a self-contained waste-to-energy system that benefits from the creation of jobs.
- A contribution towards green transport infrastructure via:
 - Embedded cycle routes
 - An electric tram system for commuters
 - A contribution to electric buses (who can re-charge at the bus depots on a pre-determined schedule)

These suggestions are just a handful of ways that developers should be contributing to more sustainable housing development. Having the option of using green building design is no longer enough, the planning system needs to be pro-active in its contribution to the fight against climate change. This consultation clearly seeks to increase house-building rates, however we should take this important opportunity to influence the way in which new homes are built in future.

The economy and the environment are not in opposition to one another, in-fact they have the potential to run hand in hand – again take Singapore and Iceland for example. The carbon footprint of development should not be taken lightly and developers should demonstrate how they are assisting on reducing their carbon footprint through the measures set out above.

It should be noted that the cost of being re-active, and dealing with the fall-out of natural disasters resulting from climate change, far outweighs the cost of being pro-active. Only through bold steps like this can we have a hope of meeting the national target of having net zero carbon emissions by 2050.

Proposal 16: Quicker, simpler framework for assessing environmental impacts and enhancement opportunities

A simpler, effective approach to assessing environmental impacts is welcomed and we would welcome the opportunity to respond to the proposed future consultation on this. At this stage, we would however ask that any proposals provide flexibility to allow for local circumstances to be taken into consideration and also in the wider cross-boundary context where important habitat and natural environment over-laps administrative areas.

As explained further above in response to question No.10, any standardisation of technical supporting information may be suitable for some smaller and less constrained sites / development schemes, but would not be able to effectively take into account larger / highly constrained or contaminated sites and areas, which vary significantly. Discussion and negotiation on the content, and level, of technical supporting information should therefore remain at a local level to allow for necessary engagement with the Council's experts and key consultees.

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

The proposal of giving autonomy to 'suitably experienced' architectural specialists in

relation to routine listed building consents presents a level of subjectivity. It is unclear as to what is meant by 'routine listed building consents' and this requires further clarification and consultation.

This has the potential to increase the number of enquiries / pressure on Planning Enforcement Teams where works carried out to important heritage assets may not be considered sympathetic or appropriate by the local community or an LPA.

Proposal 18: Improvements to energy efficiency standards for buildings

The proposal to reassign resources and focus more fully on enforcement as part of these reforms is noted. However, planning enforcement is not currently a statutory function and currently has very limited resources and fee income opportunities i.e. through retrospective applications to regularise development. Developers need to clearly understand what is being asked of them, and enforcement action should be taken if they are not complying. However, this will only be achievable if sufficient resources are implemented to Local Authorities.

In addition to reducing the number of paid-for planning applications, the reforms would also continue to require some form of assessment / determination of applications and prior approvals meaning the resource requirements of LPAs are not likely to change significantly. Significant investment / fee generation and resources would therefore be required to facilitate this shift-change in the planning system.

Pillar Three – Planning for infrastructure and connected places

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

The current dual process of Community Infrastructure Levy and Section 106 is burdensome, complex and still fails to adequately bridge the funding gap to secure the strategic infrastructure required to support new development. It is therefore right that the government considers the use of a single levy on development in the future.

However, the Section 106 process has been long-held to be a useful tool by all relevant parties as it enables negotiations to take place around local, and site-specific, viability and site conditions. This is particularly important in areas like Walsall and the Black Country which have lower land values, higher remediation costs and overall lower viability than other parts of the Country. This proposal should be set out in greater detail by the government as part of a separate consultation with key stake holders in the Planning process.

We strongly oppose the proposed setting of rates at a national level which would not be able to take account of these localised matters. Rates should be set at local authority level.

The term 'key workers' needs to be clearly defined.

Any levy would need to ensure non-financial obligations can continue to be secured, including:

- Site specific traffic management
- Provision and maintenance of sustainable drainage
- Landscape Management

- Arrangements for private maintenance of estate roads
- Encouraging use of low or non-emission vehicles and travel plans
- Effective and sustainable highways.

Greater investment in strategic infrastructure is required at a national level by government along with greater promotion and incentivised investment by developers in sustainable infrastructure to provide an infrastructure network that is able to support, and speed up, the delivery of future growth and development. This could take the form of a pro-active approach by the government who would make the initial investment in the necessary strategic infrastructure across the Country in liaison with each LPA. A charge / tax could then be spread across all development sites identified in Local Plans which becomes payable at the time of / during phases of each development.

Please refer to the enclosed research paper on Planning Obligations, completed by Michael Brereton (Senior Planning Officer, Walsall Council). This paper sets out a useful assessment of development levies, and clearly demonstrates the need for site specific negotiations. In particular, see:

- Page 12 where it states “land owners tend to over inflate land values (Sandwell, 2012, Smith, M, 2012)”; and
- Page 13 where it states “This research also shows strong support towards the need for site-by-site negotiations to continue (Harrison, A and Fox, M, 2012, LPA2, 2012, Sandwell, 2012)”.

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?

Please refer to our response set out above under question No.21.

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

Rates should be set locally to reflect local viability, market conditions and circumstances which vary significantly between administrative boundaries, and within LPA geographical areas. See the enclosed research paper which demonstrates that viability and flexibility at a local level is paramount to the effective delivery of development.

Furthermore, any new levy should include the ability to review viability at key stages of construction to ensure any improvements in market conditions and viability can be reflected in the fees to be collected by an LPA i.e. via a claw-back mechanism or similar. This is particularly important on schemes which initially seek reduced obligations on grounds of poor viability at that time.

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?

Rates should be set locally to reflect local viability and circumstances and demand / need. See the enclosed research paper which demonstrates that viability and flexibility at a local level is paramount to the effective delivery of development.

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

Uncertainty in the level of likely income to be generated from a levy, and overall anticipated low levels of income expected for areas such as the Black Country with lower overall viability, would make it difficult and risky for LPAs to borrow against potential income. Greater investment in strategic infrastructure is required at a national level by government to provide an infrastructure network that is able to support, and speed up, the delivery of future growth and development.

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

Yes, it is considered appropriate that development carried out under permitted development rights should contribute equally towards any necessary supporting infrastructure to mitigate impacts arising over and above the previous use of the land or buildings. This would however be difficult for an LPA to monitor where development is carried out outside of a recorded planning application submission.

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, there is a need for further affordable housing in Walsall. The current waiting list is 10,129. In an area like Walsall, where many mono-tenure estates exist, it is essential that the affordable housing contribution is provided on-site wherever possible to ensure more mixed and sustainable communities.

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?

In-kind payment towards the Infrastructure Levy – on-site rented accommodation is the greatest need in Walsall.

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

Further details are considered necessary on any potential mechanisms before being in a position to respond to this question.

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?

Developers should be required to ensure affordable homes are constructed to meet any local or national design and quality standards.

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

Yes. The affordable housing element of any infrastructure levy must be ringfenced, but

within that ringfence, flexibility should be present to enable local authorities to determine the type of affordable housing to be provided on a site-by-site basis to meet local demand / need.

Competing demands for key supporting infrastructure i.e. affordable housing, school places, open space and highways improvements often means that a single development is unable to meet the entire costs required in a planning obligation. This is particularly the case in areas like Walsall which has higher land remediation costs and lower overall viability.

Outside of the above suggested affordable housing ringfence, greater flexibility should therefore be given to LPAs to use any levy / Section 106 funds collected towards any form of infrastructure with an identified need / funding gap. This should allow for the pooling of all funds collected to help pay towards fundamental items of strategic infrastructure. This is particularly important to areas like Walsall which receives relatively low individual developer contributions, and would benefit from the ability to pool these contributions to secure larger infrastructure improvements to support growth and to the benefit of the local community, business and investors.

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

Yes, as above, the provision of affordable housing is essential to meeting housing need and should be ring-fenced.

Delivering change

Cost of operating the new planning system

Whilst the proposed use of a small proportion of income from a new levy could be used towards overall LPA costs and enforcement activities, as explained in our response above, overall viability and land values are much lower in areas like Walsall and the Black Country, and any income is likely to be fairly limited with little potential to utilise any of the funds towards overheads. Alternatives should be explored and consulted on, including increased / localised planning fees and the introduction of a new nominal 'Enforcement Enquiry' fee to help towards the increased costs and resource implications on LPAs as a result of this proposed reform of the planning system which would become 'planning by enforcement'.

Stronger enforcement

As explained in our response, Planning Enforcement teams are not currently a statutory function and are already very under-resourced and under significant pressure. These reforms have the potential to exacerbate these issues without proper investment and resources which would otherwise result in on-going deterioration of the local environment to the detriment of local communities, visitors and businesses.

Equalities Impacts

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?

Yes. The proposed reliance on digital consultation sources would create a barrier to some members of the community engaging in the planning system who may not be able to communicate in that way due to age and / or disability. This would directly affect people in those protected characteristics.

Furthermore, the proposed nationalisation, and over-simplification, of the planning system would reduce local democracy and result in future harm to the built and natural environment therefore with the potential to affect members of the community within all protected characteristics of the Equality Act 2010.