Appendix 2 – Proposed Response

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

- Democratic
- Multifaceted
- Necessary

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

Yes – as a local planning authority LPA, South Derbyshire District Council engages at national, County and neighbourhood level together with cross-border working.

2(a). If no, why not?

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?

Following changes to the Data Protection Act through the GDPR in May 2018, those wishing to be informed of planning policy consultations at the outset of a consultation have had to actively provide their consent to have their details held on the consultation database.

In assessing others' responses to this consultation question, and the subsequent requirement made of LPAs through legislation, the workability of the regulations with respect to the Data Protection Act must be borne in mind.

As part of the shift towards digital sharing of information, presentation of this information in a spatial fashion would be beneficial.

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

South Derbyshire District Council's Corporate Plan sets out a vision to make the District a great place to live, visit and invest. To deliver this the Plan includes commitments to:

1. Improving the environment of the District including through tackling climate change, addressing biodiversity decline and enhancing the attractiveness of South Derbyshire.
2. Working with communities and meeting the future needs of the District including in respect promoting health and wellbeing, improving the condition of housing, supporting social mobility, tackling crime and antisocial behaviour and making services more accessible through use of technology.

3. Growing the District and its skills base by supporting economic growth, the attraction and retention of skilled jobs, supporting the unemployed back to work, enabling the delivery of housing across all tenures to meet Local Plan targets and influencing the delivery of infrastructure to meet local needs.

In simple terms, the priorities articulated above are environment protection and enhancement, tackling inequalities, and delivering sustainable growth. The delivery of these 'priorities' is reliant on the Council prioritising and seeking to address all of the issues highlighted and more. Delivering sustainable and equitable growth is not delivered by prioritising one or two issues ahead of others. Whilst some local stakeholders may have strong views about the places they live or work, focussing too narrowly on some issues at the expense of others will inevitably lead to poor development which fails to meet the needs or expectations of the whole community.

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

Whilst on the face of it having each piece of land categorised as one of three area types could be considered a simplification of a local plan. How these three area types, in particular Growth and Renewal areas, will work in practice is, to a large extent, yet to be determined and is not without complexity; establishing the sub-areas within each category, creating areas for self and custom build homes, establishing differing permitted densities, identifying distinct areas around high streets and town centres and introducing design codes will inevitably result in 'policy layers'. This complexity is unavoidable within a meaningful planning system; to imply that every area of land can neatly fall into one of three categories is misleading. The detail of the accompanying text needed for the Growth and Renewal areas is of particular concern given the proposed 12-month plan production window.

There are many unknowns remaining within the proposals with terms and parameters yet to be defined, such as 'substantial development' and 'important constraints'. What is substantial for one area will not be substantial for another. However, the definition will be set out in national policy. The 'important constraints' that would be excluded from Growth areas unless the risk can be fully mitigated, have not been specified. Regarding mitigation, would the need for mitigation need to be proven at the point of submitting the site within the first six months of the plan process and if so, would this case for mitigation then need to be determined within the 12-month plan production period? Demonstrating successful mitigation requires substantial up-front financial resources, however, at that early stage of the plan process, with no certainty of an allocation, a landowner/developer might not be able to afford to take the risk. Similarly, it is not clear when masterplans and design codes will be prepared in the plan process. If there is to be any significant level of detail to support an allocation of a Growth area, this is not compatible with a 12-month plan production timeframe.

The proposals as they stand would result in the local plan policies map looking very 'bitty', with Protected areas to include gardens and the dwellings themselves within the curtilage likely to fall into a Renewal area. The plotting of the interactive map will not be achievable if gardens and dwellings are to fall within different areas. As such, there needs to be a recognition that protected areas will 'wash over' existing properties which might otherwise be seen as previously developed land, normally suitable for 'renewal'.

The introduction of a wholly interactive local plan policies map is supported, however, detailed guidance would be required to ensure that a set standard applied across the country. This extends to a clear set of criteria for whether policies are defined by polygons and/or icons or shading.

For LPAs to prepare for the changes proposed, the new NPPF would need to be published well in advance of new legislation. Transitional arrangements will need to be considered in detail – perhaps to the extent that any new NPPF only applies once a new-style Local Plan has been adopted.

It is unclear whether promoters and developers are expected to pay towards the plan making process, to substitute for the loss of fee income through removal of the outline application process. To do so would risk forming the public perception that landowners and developers could 'buy' an allocation, however, without sufficient financial resources, the speedier delivery of plans will not be achieved.

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

Seeking to reduce the duplication of national policy within Local Plans is understandable and many policies are adequately covered by the NPPF e.g. Heritage, and Green Belt. However, general development management policies only being set nationally, does not allow local authorities to respond to local issues/priorities in ways which they think are appropriate and reflect the distinctiveness of an area. Authorities will instead by constrained by National Policy requirements. The new system needs to reflect the fact that there are always going to be certain local issues that will not be covered by the NPPF or Neighbourhood Development Plans (NDPs) and councils need the flexibility to be able to address these in their local plans. e.g. The National Forest is not a national issue. It would be preferable if the NPPF sets out what is covered nationally and does not require further policy to be set, although effective consultation on the wording of these policies will be required - particularly with practitioners who are expected to apply them. Local authorities or NDPs could pick up on topics which the NPPF cannot cover.

It is likely that by removing general development management policies from the Local Plan, Local authorities will add many requirements within the design guide and codes, to ensure that local priorities will be taken into account. Therefore, instead of the information being contained within the Local Plan as separate policies, the information will be contained within the design guides and codes.

The premise of development management policies and code requirements being written in a machine-readable format, is understandable. However, funding and software training will need to be provided to local authorities to enable the implementation of this. In addition, can LPAs compete with the private sector to attract skilled individuals into a quasi-planning/software developer role?

In terms of the alternative options proposed, limiting the scope of the polices local authorities can write, could again stymie local authorities ability to respond to local issues/proprieties and again does not sit well alongside the premise of the Localism Act, nor the concept of the White Paper enabling better engagement. The idea that local authorities can set their own development management policies (without duplication of the NPPF) is supported. This should reduce the number of policies within Local Plans and ensure that local authorities have the opportunities include policies which are locally distinctive, if they so choose.

The status of the NPPF would alter to being part of the Development Plan. It is important that provisions will be made to ensure that future revisions of the Framework would undergo a rigorous and transparent testing through a similar examination process?

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?

In the main yes, but with some qualifications.

The environmental assessment process is complex and unwieldy. It has become so partly because of the requirements included in legislation and partly due to the fear of Councils or their consultants that a failure to address the specific requirements of the Strategic Environment Assessment (SEA)/Sustainability Appraisal SA processes will be used to challenge the validity of the Plan by aggrieved third parties either during examination or following its adoption.

However, there is much that is positive about the environmental assessment process and there can be no doubt that having an understanding of the likely environmental, and other effects of delivering the Plan leads to better Plan-making. It also assists with and ratifies the selection of sites when there are numerous competing opportunities. There are a number of key elements of the SEA/SA process that should be retained.

1. A brief appraisal of the spatial approach identified by the authorities explaining the options for spatially distributing growth and why the chosen approach has been selected.
2. A brief appraisal of the housing delivery target options (only if deviating from the standard method)
3. A concise assessment of sites put forward for growth (preferably against a specified and limited number of mainly environmental constraints which could be set by central government) to allow potential environmental effects to be identified and to stop the future sprawl of the scope of the SA into other matters
4. the identification of mitigation measures to help reduce the adverse effects/improve the beneficial effects of bringing the reviewed sites forward
5. an explanation of why the chosen sites have been selected.

Trying to restrict the assessment to these key issues and the controlling the scope and complexity of the environmental appraisal will reset the assessment process towards one which is easier to understand and undertake. This could increase the number of assessments done internally by planning authorities (and reduce the need to engage more expensive consultants) and in doing so strengthen the link between plan-making, environmental protection and accountability. If the scope and content of appraisals were carefully controlled and optimised by those with expertise in this sector, many of the benefits of the current SA process could be retained, whilst many of its

failings related to its complexity, its resource intensive nature and in particular it use as a vehicle to slow down or frustrate the plan-making process can be addressed.

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

In the absence of regional planning, perhaps one mechanism to deliver strategic infrastructure and address other cross boundary issues could be to mandate joint working between Housing Market Area (HMA) or other authorities to prepare a Sub-Regional Infrastructure and Cooperation Strategy. This could be akin to proposals in the Environment Bill which requires groups of authorities to prepare a Local Nature Recovery Strategy. Asking authorities to collaborate to identify cross boundary infrastructure needs and requiring that this evidence feeds into planning making and decision taking of individual authorities could allow cross boundary issues to be adequately incorporated into individual plans. Works on such sub-regional infrastructure strategies could be coordinated by county councils in two tier areas or Local Economic Partnerships. There should be a requirement for local authorities to engage with partners, in particular to ensure impacts outside of the area influenced by the Plan can feed into the strategy.

However, it is not enough to just identify infrastructure needs. It needs to be delivered in a timely fashion if larger sites are to be bought forward. This Authority has allocated a number of larger sites and they tend to stall due to issues securing infrastructure delivery. Single sites can rarely deliver big ticket items due to the costs involved. Whilst the potential for Community Infrastructure Levy (CIL) and other mechanisms exists to support the collection of funds from multiple developments within a broader area where land values/viability are high, in areas with low land values, which reflects many urban areas in South Derbyshire the Government needs to financially support the delivery of infrastructure (and therefore the timely delivery of sites) through providing grants, loans or general funding sufficient to fund necessary infrastructure. It is hugely frustrating for councils to allocate or give permission to large sites, but five or ten years later still be unable to get the sites delivering much needed housing and employment land due to the inability of the authority and developer to access funds necessary to make those site sustainable. The Government needs to step up and assist with the delivery of sites requiring significant upfront infrastructure development. Failure to do this will continue to undermine housing delivery, particularly in areas where land values are lower.

Linked to this point is the question of whether, following examination of a site where it is made clear that a significant piece of infrastructure is required, that there should be an automatic commitment by Government to fund the infrastructure conferred by adoption of the Plan.

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

South Derbyshire is a district which is committed to delivering significant housing growth and is performing well in achieving significant housing completions over several years. It is right to simplify the way in which housing needs are determined to provide certainty to Council's, communities and developers regarding new local provision. However, the proposed standard method appears to have no regard to the capacity of local communities to accommodate ever

increasing growth. Constraints should not just reflect the environmental capacity of local areas but also the social capacity of an area. Exceptionally high levels of growth can undermine community cohesion particularly where this growth is not supported by the necessary infrastructure which is costly and time consuming to provide. The more significant the growth, the more significant the time and cost is of providing the necessary infrastructure to support it. Where high very levels of growth are required over long periods the government should do more to support existing communities to adapt to growth or help facilitate the creation of new settlements, for example through funding the creation of new infrastructure including social and green infrastructure. The private sector is risk averse and has consistently been unable to fund infrastructure particularly when this is needed early in a development process.

Moreover, it is unclear how the proposed methodology can meaningfully drive urban regeneration. Based on the proposed methodology housing need for South Derbyshire will be 1,209 homes, whilst Derby City will need to deliver 624 homes and Amber Valley 663. South Derbyshire will therefore be expected to deliver almost half of the Derby HMAs growth despite its current population being around 100,000 people and being defined as a rural District Council. In contrast Amber Valley and Derby City, which have a combined population of over 385,000, will receive the other half of the HMAs required housing growth between them. In simple terms housing growth in the Derby HMA outside of South Derbyshire will be around one quarter of the level per 1,000 people even though the remainder of the HMA includes the City of Derby. This is absurd and is fundamentally at odds with the governments stated ambition of 'levelling up' which clearly requires city areas in need of regeneration to accommodate a higher proportion of new housing than the proposed methodology will deliver. In addition, the reduction in the City's need from the existing methodology to the proposed methodology also does not fit the concept of Renewal Areas and 'gentle densification', noting that it would be normal under the current arrangements for an authority to undertake a capacity study to demonstrate to its HMA partners it cannot accommodate further growth within its own limits.

This level of growth in South Derbyshire cannot be responding solely to local needs. Continuing to mandate this high level of growth in the future can only be met by very significant level of greenfield growth due to the rural nature of the district. In contrast there are opportunities to regenerate previously developed land or repurpose underused areas or buildings in the City (the main driver of growth in the HMA) and far more emphasis should be put on increasing housing in urban areas where employment land, social infrastructure and other facilities and amenities are located rather than creating new urban extensions which are comparatively poorly related to key infrastructure and existing communities.

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?

These are relevant considerations, but it is unclear how the standard methodology proposed effectively achieves this in respect of South Derbyshire. South Derbyshire includes one town, population just less than 40,000 people. The next largest settlement is a large village of around 10,000 people. The remaining population lives in very rural communities all but one of which have populations of less than 3,000. There are a small number of new communities currently being developed as urban extensions in the north of the District adjoining Derby but these are currently limited in size and population. And despite this South Derbyshire 'housing requirement' is double that of the City itself.

In terms of housing affordability it is correct that this has deteriorated in South Derbyshire in the past ten years, though since 2016 housing affordability in South Derbyshire has been broadly static with the median price of a house being 7.2 times the median workplace-based gross annual earnings for full-time workers. in 2019 this figure was 7.18 a level below the national average affordability ratio of 7.6. However, given that transactions in the past three years in South Derbyshire will include around 1,000 new builds per annum and these are on average 9.6 times the median income[1] (i.e. notably more expensive) it is likely that new growth is leading to affordability appearing worse in areas of recent historic growth which will effectively skew growth to locations which have grown rapidly in the recent past.

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

No. The body of work which would need to be undertaken at the local plan stage to underpin an automatic outline permission cannot be assembled within the current resource limitations of the planning system. The due diligence necessary to gain the certainty that sites can be delivered and map out the general approach to development does have to happen at some point but to suggest that small planning teams can undertake the depth and breadth of necessary evidence gathering across many sites within the time frames set out is totally unrealistic.

The work that underpins an outline permission does have to happen at some point if it were to form part of the plan making process it will not be possible within 30 months. Moreover, the very significant costs currently met by developers will be transferred to Council's (and hence local communities). It is unclear how this additional resource burden could be clawed back given the general approach muted in the white paper that the costs of planning should be borne by the beneficiaries, not by existing communities.

It would be better to have a permission in principle fall out of the back of the Local Plans process this will provide increased certainty for the developer to progress the site design and work up development proposals (informed by a design code if these are required) and will give communities an understanding of the scope and likely timing of development. In short there needs to be the right detail at the right time. There has to be an acknowledgement that there is a significant role for the developer to come up with the detail after they have the comfort of having the allocation/permission in principle in place.

As a further note, it is also worth highlighting that should the government want LPAs to produce local design codes, or Local Development Orders to speed up decision taking later on in the process, at the same time as reducing plan preparation time, and increasing the due diligence necessary to underpin permission in principle being given through the plan making process there will need to be a very substantial increase the resources available to Council's.

There is also a contention in using developer/promoter material in evidencing allocations and in turn a permission. Public trust is needed through the process, and it cannot be seen that an allocation is 'bought' through solely developer/promoter led and funded evidence.

[1] https://www.ons.gov.uk/peoplepopulationandcommunity/housing/bulletins/housingaffordabilityinenglandandwales/2019

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

Up to a point, however it will be necessary to have the flexibility to deal with proposals for all types of uses as and when they arise. When you factor in the applications that come forward in renewal areas will often be small scale and whilst a presumption in favour of sustainable development should apply, it is not likely to be possible to create a framework for prior approval requirements which can provide the level of certainty the government is striving for. Moreover, much of this approach seems to ape the governments approach to permitted development which regarded by many stakeholders as leading to poor quality and inappropriate development, and increasingly inaccessible to the general public as the legislation becomes more complex.

There is a contradiction between asking for plans that are short and asking for detail to be included about the renewal areas.

There needs to be a realisation that development coming forward in renewal areas is more likely to suffer from existing constraints across a broad range of topics, many of which will need conscious assessment on a case by case basis to ensure impacts arising are well balanced.

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

No. Whilst the creation of new settlements may be large-scale developments they are not nationally significant infrastructure and they are typically proposed to meet local housing needs. Furthermore, it is unclear how taking decisions on the appropriateness and location of new settlements from existing communities is either desirable, or possible given the resource constraints faced by the Planning Inspectorate.

The local community should be properly involved in decision taking. It is crucial that the delivery of such communities be informed by local views on design, layout, housing mix, open space, public private realm etc. New settlements should not be entirely focussed on infrastructure and delivery. The Nationally Significant Infrastructure Projects (NSIP) would basically be determining a reserved matters application for a new settlement, however this should be determined locally where schemes are of local importance only and will not have clear and significant cross boundary effects. In addition having new settlements would not only lead to the loss of control of decision making by a democratically accountable body but would also deprive councils of the opportunity to shape the scheme as well as the fees that follow applications of this nature.

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

No. Rigid deadlines with no possibility to extend will result in Council's having to refuse applications simply because all the information has not been provided in a timely fashion. This will leave applicants having to re-submit. The key point is an **agreed** extension of time is it actually benefits all parties. This will not speed up the process, it will slow it down. The change from the Housing and Planning Delivery Grant years to the current approach evidences this, with reduced numbers of refusals overall.

The principle of faster decision taking is supported and the integration of technology into decision-taking can help achieve quicker processing and determination of applications. However, it is not possible to provide certainty in every case, or speed up all proposals. Nor is it possible to create a piece of software that exercises planning judgement – these things cannot be distilled down to an algorithm. Constraints do not capture everything, and different scenarios and issues come into play of each application.

The White Paper includes proposals for the delegation of detailed planning decisions to planning officers where the principle of development has been established [at the plan making stage] as detailed matters for consideration should be principally a matter for professional planning judgment. In the view of officers this is wrong. The real goal should not be to disenfranchise local communities and remove the right of elected Councillors who are democratically accountable to the communities they represent to influence decisions. Instead the government should seek to establish a system which manages the uncertainty and the delays that can arise when complicated and often controversial decisions need taking. Local people should have a voice in shaping their communities and this should be heard, even if it is not possible to reflect the views of all. Moreover, it is not for the government to interfere with individual Council's delegation arrangements.

The standardising planning conditions, frontloading the process to that extent would be good; shifting towards digital (which, actually, is already being delivered now); and specifying the scope and content of evidence and environmental information we need to make decisions are positive proposals.

The proposals to incentivise LPAs to determine an application within the statutory time limits are not supported. The suggested mechanisms of achieving this of an automatic refund of the planning fee for the application if not determined within the time limit, or potentially exploring whether some types of applications should be deemed to have been granted planning permission if there has not been a timely determination, would erode local trust in the planning system and fail to recognise the often complicated nature of some decisions. The automatic refund approach also raises the very real possibility of developers securing a return on their fee, by deliberately responding to issues arising after the statutory period.

Creating a more adversarial approach between developers and LPAs, and threatening Councils with sanctions if decisions are not taken within an arbitrary timeframe is unlikely to speed up decision taking and could harm the positive relationships between councils and developers. It will also likely lead to poorer decision taking and an increase in the number of refusals as noted above. The planning system works best when developers and councils work together to address the issues posed by development. Threats (or in the language of the White Paper incentives) to councils wanting to take a little extra time to deliver high quality development schemes which in any case will often take years to build out, cannot be easily changed and will be in place for 50, or even a 100 years or more seems unnecessary and deeply unhelpful.

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

The new plans will be built upon the idea of them being interactive and map based, this is something that is agreed with in principle and probably overdue.

It is important that a web-based approached is genuinely accessible for all as per the requirements under the Equality Act 2010. The White Paper indicates that to support open access to planning documents and improvements to public engagement in the plan-making process, plans should be fully digitised and web-based following agreed web standards rather than document based. This is a major shift from the current approach to consultation and will need to be supported by significant training, investment in software and possibly investment in staff with the appropriate level of IT expertise. At present most local authorities do not necessarily have the resources or knowledge to create something using the current design and technology level that is required within individual Planning Departments and attracting appropriately qualified IT staff to such a niche and newly evolving sector could prove to be difficult.

It will be a benefit for most members of the public to be able to view Local Plans easily at a time and place of their choosing by clicking on a web-based map to see what proposals will have a direct effect on their local area. However, this eliminates the possibility of the opportunity for the Planning Officer to be able to take the time to explain the reasoning and evidence for the decisions to the member of the public as they would during a consultation event. As not everyone can be engage through Social Media and other digital platforms, which are proposed. There are still aspects of the consultation process where provision will still need to be made for and guidance given for how these hard to reach groups, whose view must be heard, and matter can be engaged.

Having policies accurately and clearly with set boundaries for each element on interactive layers it will provide clarity for all (developers, LPAs and members of the public) when it comes to applications and appeals. This might even reduce the amount of wasted applications appeals that are faced through a misunderstanding of the policy position relating to developments.

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

No. The proposed 30-month timescale for the preparation of a Local Plan is unlikely to be realistic for LPAs to achieve. The proposals require that local authorities draw up a Local Plan within 18 months and assemble the evidence to grant outline permission for Growth areas, when many local authorities already have limited/stretched resources including staffing and funding. The proposed timeframe significantly underestimates the scale of the challenge for local authorities – especially where collaboration and agreement between multiple authorities and stakeholders is required.

Although Local Plans will no longer contain generic development management policies, Planning Authorities will still need to collect a substantial amount of evidence to help determine and justify the identification of land into the three categories. 18 months to collect robust evidence, make decisions on the three land categories based on the evidence collected and resolve any technical issues is unrealistic within the constraints of current resources. Particularly as the level of detailed required to effectively granted outline planning permission for Growth Areas, is likely to be substantially more than that currently required for Local Plan Allocations.

Given the level of detail required to effectively grant outline planning permission for Growth Areas within the timeframe suggested, clarification on how local authorities will be supported would be welcomed. Is a substantial amount of information and master planning expected to be provided by developers from the ‘call for sites’ submissions (with Local Authority inputting once sites are

submitted), or are local authorities expected to prepare this work, with the cost transferred from the developer to the Local Authority? Either way existing Local Authority resources will be stretched and are unlikely to be adequate to meet the increased workload in the timeframe proposed.

The White Paper states “Plans should be informed by appropriate infrastructure planning, and sites should not be included in the plan where there is no reasonable prospect of any infrastructure that may be needed coming forward within the plan period” (para 2.20). To achieve this Local authorities require input from other Government Agencies (e.g. County Highways, Highways England, County Education), service providers (gas, electricity, water) and other statutory consultees such as Natural England. This places a burden on these consultees whose resources are already stretched and will not have the same priorities as LPAs. Local authorities’ success in being able to meet the 18-month timescale for plan production, is influenced by outside agencies providing information and helping to resolve technical issues in a timely manner. Furthermore, there is a risk due to the tight timescale, potentially incomplete responses from consultees could be provided, meaning infrastructure planning may not be considered and addressed as fully as it should.

The White Paper states that sanctions will be imposed on those local authorities who do not meet the statutory deadline. Clarification is sought on what the sanctions would be. As mentioned above the proposed timeframe is very challenging and it would be ludicrous if local authorities could be sanctioned if the delay was down to statutory consultees not providing timely information. Furthermore, financial sanctions would hit already resource stretched planning departments and could potentially affect the production of a Local Plan.

In terms of consultation and the 30 month timeframe, the only chance consultees get to comment on Planning Authorities proposed land classifications and policies is at stage 3 of the process, when the plan is submitted to the Secretary of State for Examination. The White Paper states “Our reforms will democratise the planning process by putting a new emphasis on engagement at the plan-making stage” (par 1.16). As it currently stands during Local Plan production most local authorities will consult at an Issues and Options Stage, Draft Local Plan and Pre-submission Local Plan prior to submitting the plan for Examination. It could therefore be argued, that only giving consultees a chance to comment on proposed land classification and policies once the plan has been submitted for Examination, is less democratic and gives consultees less of chance to get involved than the current system. Particularly if detailed applications will no longer be able to go before Councillors as highlighted earlier. The proposal also provides less consultee input into the process than a Neighbourhood Development Plan , as there is no Regulation 14 equivalent consultation. It is therefore proposed that stage 1 of process should include a general ‘what do you think are the issues and options for this Authority?’ consultation. However, the timetable should be amended to reflect this additional work.

Another concern regarding consultees only commenting on proposed land classifications and policies at submission, is that issues may only come to light at the point of Examination. Whereas in the current system consultees can raise points at various stages (e.g. Draft Local Plan, Pre-Submission), giving the Local Authority opportunity to address these. Currently no guidance is provided on what the process would be to resolve major issues uncovered at stage 3. Would the issue/s for example get addressed at Examination, or would the Local Authority have to go back to the beginning of the Local Plan process? Clarity on this matter is needed.

In regard to the alternative examination options (para 2.53 and 2.54), the suggestion “that the automatic ‘right to be heard’ could be removed so that participants are invited to appear at

hearings at the discretion of the inspector" (par 2.53) is problematic. The White Paper claims that it is putting a new emphasis on community engagement (par1.16), however not allowing all to be heard seems to be contrary to this statement. It could also potentially lead to members of the public feeling that the planning system is not inclusive.

In terms of less complex or controversial Plans being examined through written representations only. Providing those participants who want to make written representation are able to do, there is no objection to this option, as the process still gives opportunities for consultees to have their say and would be less onerous and time consuming.

The last option put forward to remove the Examination stage entirely and requiring LPAs to undertake a process of self-assessment against set criteria and guidance, with Planning Inspectors auditing some completed plans to ensure the sustainability test has been met (par 2.52), is again problematic. It would likely lead to a large number of legal challenges which are time consuming and costly and would be counterproductive with the Government's desire of reducing the length of time for Local Plan production and adoption.

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

The principle of retaining NDPs should be supported but there is a lot which could be improved in terms of how the plans are prepared. The number of communities preparing NDPs in the District is very low. Of the one NDP that has been made and the two reaching regulation 14 (first consultation stage), none have sought to proactively allocate land for development. As such, the experience has been that the NDP process is time consuming in terms of providing officer support but without the intended purpose of NDPs being realised. There needs to be a rigorous process where neighbourhood plans demonstrate how they will meet housing need. How will the NDP actively assist in the delivery of strategic plans.

There is also needs to be a mechanism whereby the policies and proposals of NDPs can be spatially displayed and available to members of the public and other stakeholders both during their preparation (and consultation) and once adopted (as proposed in Q11), given their status as part of the development plan. Moreover, should the Government move towards having nationally prescribed policies there will be a need for NDPs to restrict policies included in their plans to those of only local relevance or towards the inclusion of specific allocations or designations.

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?

Any reform regarding digital tools and local plans should be replicated for NDPs. However again resources and training regarding implementation of this needs to be considered.

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, there should be a stronger emphasis on the build out of developments once permission is in place.

The legal definition for commencement of development; "*development is taken to be begun on the earliest date on which a material operation is carried out*" is a problem. Limited development needs to occur to meet this requirement. Consequently, there is no incentive for developers to build out sites quickly, as once a material operation has commenced (however small), planning permission does not lapse. Changing the definition of what implements a permission could encourage faster build out rates. Developers for example could have to spend money in order to implement a permission, e.g. land value tax from the date of permission. Once developers are ready to build, it needs to be in their financial interest to build out without undue delay or break sites up to facilitate delivery by multiple housebuilders. Unless there are sanctions for developers sitting on permissions, there is nothing the Local Authority or regulatory bodies can do to speed up delivery.

The government also need to commit to the provisioning of new strategic infrastructure where this is holding back development across a wider area. Larger sites often require very significant infrastructure, two such sites of over 2,000 homes are being held back in this District for this reason.

In some areas it may be the case that the market can stand the cost paying for 'big ticket' items, although paying for infrastructure upfront raises issues that delays site delivery. However in many areas the costs of providing new road infrastructure, secondary schools and such like, is just not possible due to the build costs associated with development (for example where there are abnormal costs) or where land values are so low that development cannot stand the additional costs needs to make sites sustainable. As highlighted earlier in this report central government needs to do far more to facilitate growth in such locations through a combination of grants, loans and other interventions to get these sites moving.

Planning teams also need to be properly resourced to handle the discharge of conditions and obligations. Whilst councils can charge for the latter, the current fee for a conditions discharge is negligible when there is scope to seek approval of multiple conditions at once on a large site. It would be prudent to set a higher charge 'per condition applied for', justifying councils resourcing speedier approvals and subsequent monitoring of implementation.

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

It generally does not reflect local character or vernacular. Most new homes are built by large developers who have value engineered housing types which they seek roll out across the Country. The same broad layouts, materials and house types built in South Derbyshire are built out elsewhere. This is clearly beneficial to developers as they know the costs and delivery rates of sites but it harmful to local character. There is a general reluctance to design for local site characteristics or conditions using local materials because this increases development costs and uncertainty for the developer. This is especially true in areas with lower land values.

However, design is more than just materials and house types. Too often development fails to adequately respond to the opportunities and constraints offered by sites.

There has been some improvement in the quality of the design in some larger developments (though not all) and improving accessibility, delivering sustainable drainage, providing on site habitat creation and on site tree planting or providing open space and creating local centres and social infrastructure can all help to improve the design quality and liveability of new development.

However, the quality of many sites is often undermined by developers failing to build out as consented, rowing back on commitments to deliver some components of development for viability reasons or failing to ensure that infrastructure and open space is appropriately managed post construction.

There needs to be recognition that good design increases developer uncertainty, costs and will add a degree of bureaucracy and red tape to the planning system which could affect the speed of delivery of new development. Some of these things can be partially mitigated through the creation of design codes and clear policies. However, in the end there needs to be recognition that red tape is not a bad thing if the things it secures provide greater value than costs it imposes.

There also needs to be recognition that carbon reduction should be embodied in good design principles, with developers forced to adopt the Building Regulations standards in force at the time of commencing that particular dwelling – not allowing an entire site of 2,000 to be built at standards from 10+ years ago due to that being the commencement date. Furthermore, there needs to be greater commitment and rules/requirements for developers to install and link to sustainable energy generation schemes, or provide these on site.

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

Please refer to the response to Question 4 earlier in this report.

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

Yes, but with adequate resourcing.

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 to both but as above with resourcing. If this resourcing is not in place, then these proposals will be counter-productive (particularly the Chief Design Officer) as they will raise public expectations regarding an increase in design quality of schemes without the means to achieve it. With no additional funding there is a real risk that Council's will add the title of 'Chief Design Officer', to an existing post, without that post holder having the specific design expertise or the team to deliver on it.

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

Yes.

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

No. To effectively plan for great places requires collaboration, genuine input from a wide range of local interest groups, potential use of design review or similar tools, and refining schemes until the necessary quality is in place. This takes time. In addition, whereas it is possible to gain broad consensus on good functional design, whether a place or building is 'beautiful' will always be a subjective matter. It will not be possible to come up with an effective measure of this on a national scale.

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

More affordable housing, infrastructure and services, open space better design, retail provision, employment space, schools and community facilities. There needs to be sufficient flexibility to allow Council's to come to a view and potentially change their mind as circumstances change. Local councils, which are democratically accountable should have a significant role in decision making to establish what is important in the locality.

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?

No. While a system that proposes to increase the revenue levels nationally, takes into account contributions across all use classes, and is more effective at capturing increases in land values and more reactive to economic downturns is welcomed, a continuation of Section 106 is preferred in the District in order to maximise the delivery of local priorities. A move away from a S106 approach would dilute this and our preference would be to seek changes to the existing S106 system that incorporate the Government's policy aims.

The proposal would mean assessing a schemes viability at the outset, based on the cost of the build and a fixed rate for land costs. to ascertain what, if any, contribution the scheme should make towards the local community. Assessing viability at any stage other than detailed design is inherently flawed and is not likely to capture site specific barriers to development that will, if uncovered, impact on the level of the levy received. As such, this gives local communities no greater assurance than the current system on the level of contribution to be expected. Thought also needs to be given as to who should complete this work, the ability of staff on both capability and capacity grounds.

The proposal gives no indication of the financial threshold to be used, it is therefore impossible to judge the impact of this on different councils. However, it should be noted that despite Government claims to the counter, it is hard to see how affordable housing delivery won't be negatively impacted upon with the move to apply the contribution to only the proportion that is assessed as being over the threshold and not, as previously, the whole site once this threshold is reached.

For example, currently South Derbyshire has a threshold for delivery of affordable housing on sites over 15. A site of 20 dwellings would trigger this threshold and as such provide an affordable housing contribution of 6 affordable homes. If we take the same tangible example under the new rules, a site of 20 would only secure an affordable housing contribution on the 5 dwellings over the threshold, equivalent to only two affordable homes (rounded).

The removal of section 106 also raises concern over how councils can ensure the long-term management of public areas and drainage features, noting that most developers now rely on a transfer of ownership to a management company rather than the local authority. Furthermore, many local authorities may prefer to adopt these areas in the wider community interest, so it would be necessary to include a legal requirement that councils, both local and parish, are offered the land first.

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

Locally.

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

As much as is locally viable, based on local land values and property prices to maximise the amount available to spend on local priorities, but not hinder development.

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

As a District Council, borrowing against the Infrastructure Levy to support the delivery of large infrastructure projects would create large levels of uncertainty as to when, or even if the Levy would be received. Therefore if the development doesn't actually take place, or it take a lot longer than expected to reach the trigger point for collecting the Levy then the interest that is built up from the borrowing can amount to a substantial amount of money that many district ccouncils or smaller Authorities will not want to bear the added cost of.

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

Yes. If the reformed Infrastructure Levy is to be imposed, then the Levy should capture change of uses through permitted development rights. This is to ensure that change of uses contribute to infrastructure delivery and help reduce their impact on the community. Without this local authorities are missing out on opportunities to collect funding for infrastructure projects, despite the fact that these changes of use will use the surrounding infrastructure and could potentially exacerbate any existing infrastructure provision problems, such as overcapacity of schools.

It could also be seen as unfair if a new built development of the same final value as a change of use (through permitted development) was charged a Levy, however the change of use was not charged.

As Permitted Development rights are being extended further within England, through the changes made through 'The Town and County Planning (General Permitted Development) (England) (Amendment) (No.2) & (No.3) Order 2020'. It means there are new ways of residential accommodation to be delivered without planning permission needing to be sought (only prior approval). Either through the addition of new storeys on a dwelling house or a replacement dwelling. All of these could have a larger floor space than the original development therefore the charge should be applied to offset the extra impact the new development could have. Whether that be residential or commercial floorspace as then the funding goes towards helping the Local Authority deliver the infrastructure that is needed to support the growth within the area.

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, there is already an overwhelming need for genuinely affordable homes, particularly at social rent levels, and homes that meet a diverse range of differing needs. Demand for this type of housing will only be exacerbated by the economic downturn. Provision of truly affordable housing can assist in the economic recovery of the nation if adequate investment is made in its provision.

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.]

On balance in kind, however, more details are required.

It is welcomed that the Government has sought within the proposal to maintain the existing level of affordable housing delivery through developer contributions as is currently delivered, however, the figure quoted is a national figure and locally within South Derbyshire over 70% of our affordable housing delivery is through this mechanism. It is, therefore, vitally important that this level of delivery within the District is maintained. Unfortunately, the details of how this will be achieved are to date ill formed and as such cannot give us these assurances.

The District Council would want the same kind of flexibility as afforded to it under S106, in terms of accepting other forms of contributions to deliver affordable housing such as commuted sums or land in exchange for a proportion of the levy charged. It is unclear from the proposals if, in particular, commuted sums in lieu of on-site provision would be allowed. The Council would therefore welcome further clarity on this element of the proposal.

It is also unclear from the proposals how, in practice, the transfer to an affordable housing provider (AHP) would work and how this would differ from the current competitive AHP market. If the same tender process is to be used by the developer to try and maximise the amount secured for the affordable housing contribution, this will give uncertainty to the amount to be taken from the levy in regard to the affordable the housing proportion. If we move away from this system to a fixed price,

the Council will need to be more involved in the price paid by the AHP and rotation of AHPs, including the Council as a provider, to avoid animosity.

24(c). If an in-kind delivery approach is taken, should we mitigate against local authority overpayment risk? 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. The Council will require certainty that any risk taken from in kind delivery can be mitigated against in such times as an economic downturn, equally, should there be a market uplift from the time the levy is assessed, the Council should too benefit from the required proportion of this uplift in the form of an overage clause within the legal agreement.

Viability varies hugely depending on location. Where there is no overage clause – the system falls in the developers' favour. Giving up the flexibility of S106 will not help to get the most out of the land values in the District.

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

Yes. Currently there is already a wide range of infrastructure that the levy can be spent on to help mitigate the impacts of the development by meeting the tests as set out in the CIL Regulations 2010 (as amended). This already has a large flexibility in place to support the infrastructure needs of the Local Authority.

Up to 25% of this gets passed to the local neighbourhood for spending on priorities within the area where the development occurred. However, if more flexibility is allowed it will be up to the authority to choose if they take up that flexibility for items proposed.

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

Yes, if the Government and Council are committed to honouring the existing levels of affordable housing delivery, it will be necessary for the affordable housing contribution to be ring-fenced within the new Infrastructure Levy. By 'ring-fencing' a part of the levy it will be necessary to ensure that with the flexibility of the levy that is proposed, local authorities will still be able to deliver the same amount of as good quality new build affordable housing as at present.

Additional Comments

Although there is no specific question on Enforcement, the White Paper includes proposals, and enforcement against breaches of planning need to be decided at the local level. Councils cannot be required to show intent when determining the action to take. There also should not be the creation of a mismatch between expectations and resources to do it. Most councils rely on a reactive enforcement system, rather than a proactive enforcement position. Monitoring development under construction a matter of routine (as opposed to responding to complaints) would be a significant job. There are advantages of this such as improving confidence in the planning system by identifying breaches in planning control earlier, not relying on complaints to the same extent, and developing a clear expectation from applicants that development needs to be

carried out with planning permission. However, in areas such as South Derbyshire with significant volumes of development this will require a minimum of one full time job and possibly more.