

Appendix A

Shropshire Council consultation response to Planning White Paper: Planning for the Future

The White Paper Consultation poses 26 questions which are reproduced below with responses under the three pillars of the consultation. For this response a brief summary or context of the issue will preface each response, for the full text please refer to the white paper following the link below:-

[file:///V:/Planning/Management%20Team/Government%20Consultations/200805 Changes to the current planning system FINAL version.pdf](file:///V:/Planning/Management%20Team/Government%20Consultations/200805%20Changes%20to%20the%20current%20planning%20system%20FINAL%20version.pdf)

Questions 1 to 14 : Pillar One : Planning for Development

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

The Government considers the existing planning system to be outdated ineffective, controversial, limited in market diversity, complicated, unpredictable, bureaucratic, failing to deliver good design and disconnected from the communities the process is intended to serve. (see forewords to the White Paper by Boris Johnson and Robert Jenrick). Notwithstanding its potential faults the current planning system is transparent, proven, complicated, regulated and legalistic. Decisions are evidence led but sometimes perceptions about the process informs public opinion.

Question 1 Response: This very much depends from what perspective the question is being responded to or experiences. In terms of the Shropshire Council response this might be:-

- Evidence – led
- Influenced by perceptions
- Quasi Legal.

Question 2(a) : Do you get involved with planning decisions in your local area? 2(b). If no, why not?

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

Here the white paper is seeking to confirm if and why people get involved with planning decisions – it is more aimed at stakeholders than the Local Planning Authority

Question 2 Response: 2(a) Yes – Shropshire Council is the Local Planning Authority

2(b) N/A

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

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

Again this is a question aimed at those engaging with the planning process more than for the Council as Local planning Authority but the context to this question is that the government is seeking to make more information about local plans and planning applications digitally enabled, interactive and responsive.

Question 3 response: The Council already provides open and transparent access to its planning processes through a well-established and accessible online presence. It would welcome proposals to make information about planning more accessible to more in the community through digital platforms but these cannot be the only method of communication in a large rural and sparsely populated country where there is not complete digital infrastructure connectivity or coverage.

Question 4. What are your top three priorities for planning in your local area? Building homes for young people / building homes for the homeless / Protection of green spaces / The environment, biodiversity and action on climate change / Increasing the affordability of housing / The design of new homes and places / Supporting the high street / Supporting the local economy / More or better local infrastructure / Protection of existing heritage buildings or areas / Other – please specify

A further question aimed primarily at communities or stakeholder groups. All of these priorities are important and many are inter-related, i.e. communities may be more accepting of development provided it meets their aspirations about type/quality and there is a timely delivery of infrastructure.

Question 4 response: Shropshire Council considers all of these priorities are important and many are inter-related, i.e. communities may be more accepting of development provided it meets their aspirations about type/quality. Communities often express concern about the lack of smaller or affordable housing. They are concerned about the poor response from the development sector to meet the challenge of climate change through development, the quality and design of housing, and despite utilising both the community infrastructure levy and s106 obligations the timely implementation of infrastructure associated with new development is a concern often expressed by Shropshire communities.

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

The Government proposes to streamline the process of plan making by:-

- Simplifying the role of Local Plans, to focus on identifying land under three categories – **Growth areas** suitable for substantial development, and where outline approval for development would be automatically secured for forms and types of development specified in the Plan; **Renewal areas** suitable for some development, such as gentle densification; and **Protected areas** where – as the name suggests – development is restricted
- Local Plans should set clear rules rather than general policies for development
- Local councils should radically and profoundly re-invent the ambition, depth and breadth with which they engage with communities as they consult on Local Plan
- Local Plans should be subject to a single statutory “sustainable development” test, and unnecessary assessments and requirements that cause delay and challenge in the current system should be abolished
- Local Plans should be visual and map-based, standardised, based on the latest digital technology, and supported by a new standard template
- Local authorities and the Planning Inspectorate will be required through legislation to meet a statutory timetable (of no more than 30 months in total) for key stages of the process, and there will be sanctions for those who fail to do so
- Decision-making should be faster and more certain, within firm deadlines, and should make greater use of data and digital technology

Question 5 response: Yes

Shropshire Council is supportive of a Plan-led system, which ensures that there is a coordinated approach to development including such issues as the needs and opportunities in relation to housing, the local economy, community facilities and infrastructure; whilst also ensuring appropriate safeguarding of the historic and natural environment, enabling adaptation to climate change and helping to secure high-quality and accessible design.

Shropshire Council also supports the principle of appropriately simplifying the Local Plan process, increasing the use of technology within Local Planning, representing material more visually and standardisation to ensure consistency and transparency.

With regard to the approach to land with Local Plans outlined within the ‘Planning for the Future Consultation’, Shropshire Council is supportive of the broad concept of classifying land into categories, which is not dissimilar from the current approach. However, it is considered that there is scope for over-simplification with the proposed approach, and indeed some real potential for confusion and overlap between categories. For instance looking at the proposed ‘growth’ and ‘renewal’ categories,

given that the 'growth' category would include large areas for redevelopment (which could be perceived as renewal), and renewal would potentially include small and moderate sized developments on greenfield land (which could be perceived as growth and does represent a significant component of development sites).

As an alternative proposal the Government suggests that Growth and Renewal areas might be combined into a single category with permission in principle extended to the whole area. Shropshire Council does not support this and suggests extending the description of 'growth' areas to 'substantial growth and redevelopment'. It would also suggest dividing the 'renewal' area into two elements 'renewal' which focuses purely on the renewal/gentle densification of existing areas – similar to existing areas within development boundaries under the current system, and 'small and moderate growth' for the smaller development sites. This would then result in four land categories which are more clearly distinguished:

- Protect;
- Renew;
- Small and Moderate growth;
- Substantial growth and redevelopment;

There is also a need to clarify how land that is constrained e.g. subject to flood risk, but is a corridor/pocket within a wider development site to be categorised as 'growth' would be treated. It would appear very strange to exclude it, but equally it would be inappropriate for it to come forward for development. Would the guidelines allow sufficient certainty for this matter, given that such a site could potentially benefit from outline planning permission/permission in principle?

Furthermore, it will be important to understand how buffers of sensitive areas within renewal areas would be treated. e.g. settings of historic assets, proximity of ecology assets and proximity to 'bad-neighbours', again it would be strange to exclude such areas but the Council would question whether guidelines allow sufficient certainty for this matter, given that such a site could potentially benefit from outline planning permission/permission in principle?

With regard to the proposal to offer outline planning permission/permission in principle to sites identified within the 'growth' or 'renew' areas within Local Plans, see the response to Questions 9(a), 9(b) and 9(c).

With regard to the other aspects of simplification of the Local Plan the Council responds to these under the relevant questions.

Question 6. Do you agree with our proposals for streamlining the development management content of Local Plans, and setting out general development management policies nationally? [Yes / No / Not sure. Please provide supporting statement

Here the Government proposes that development management policy contained in a local plan would be restricted to clear and necessary site or area-specific

requirements, including broad height limits, scale and/or density limits for land included in Growth areas and Renewal areas, established through the accompanying text.

The National Planning Policy Framework would become the primary source of policies for development management and there would be no repetition of generic national policies in Local Plans

Local Planning Authorities would be encouraged to produce design guides and codes either as part of the local plan or as a Supplementary Planning Document. The design code should be produced in a machine readable format for screening purposes to aid validation and assessment of suitability of proposals.

Alternatively, the Government suggests that allow local authorities flexibility to set local policy as at present with the exception that policies that duplicate national policy would not be allowed.

Question 6 response; No

Shropshire Council supports the principle of streamlining the development management content of Local Plans and setting out general development management policies nationally. However, it is important to recognise the diversity of the communities, settlements and the built and natural environment in this country. As such rather than having no general development management policies, we would support the alternative approach proposed of limiting general development management policies to only where they supplement and/or provide local distinction to the national suite of policies.

Shropshire Council also supports the concept of design codes for 'growth' and 'renewal' areas. However, it will be crucial to ensure Local Authorities are adequately resourced to prepare these documents as given the diversity of the communities and settlements in some Local Authorities (such as Shropshire) which have a significant geography, built and landscape heritage which could result in significant range of design codes compared with a small urban Local Planning Authority.

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

Yes / No / Not sure.

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

Please provide supporting statement.

Here the Government proposes to abolish the Sustainability Appraisal system and develop a simplified process for assessing the environmental impact of plans, which would continue to satisfy the requirements of UK and international law and treaties

The Duty to Cooperate test would be removed (although further consideration will be given to the way in which strategic cross-boundary issues, such as major infrastructure or strategic sites, can be adequately planned for, including the scale at which plans are best prepared in areas with significant strategic challenges) and a slimmed down assessment of deliverability for the plan would be incorporated into the “sustainable development” test.

Question 7 (a) response: Yes

Shropshire Council is generally supportive of the proposal to replace the existing legal and policy tests for Local Plans with a consolidated test of “sustainable development”, which would include consideration of environmental impact.

However, whilst some elements of deliverability depend on ‘sustainable development’ considerations, the issue is much broader, relying equally on factors such as land ownership, market capacity and viability, as such we consider that there is some merit in including a separate and complementary ‘deliverability’ test.

The Council is generally supportive of replacing the current Sustainability Appraisal (SA) process, with a simpler, more transparent system, subject to the specific details of how this might work. As whilst there is a statutory requirement to appraise the environmental impact of Local Plans, the actual implementation of the current SA system is extremely time consuming. Furthermore, many find the process hard to understand and have expectations that it can prevent development or be used as a key point of challenge, often causing unnecessary delays to plan-making and adoption. A simpler, more transparent system which still meets the government’s legal requirements would therefore be preferable.

Question 7(b) response: Shropshire Council generally supports the removal of the Duty-to-Cooperate subject to an appropriate mechanism being introduced for strategic cross-boundary issues.

One potential alternative mechanism is for a regional/sub-regional forum of Local Authorities, perhaps meeting bi-annually, which identifies cross-boundary issues and then discusses options for their management.

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

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

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

Yes / No / Not sure. Please provide supporting statement

Local Plans would identify housing and employment land for a 10 year period. There would be a standardised method for setting housing numbers and a standard

method to meet Governments target of 300,000 homes per annum. Local Planning Authorities would be LPAs responsible for allocating land to meet the requirement. The Green belt policy would remain, the 5yr housing land supply would go and the housing delivery test would remain.

Question 8 (a) response: No

Shropshire Council is supportive of the principle of having a ‘standard methodology’ for assessing housing need, as this ensures that the calculation of housing need is undertaken more consistently across the country; makes the process more simple, quick and transparent; and reduces potential for challenge and the associated cost and delays to the Plan making process.

The Council also support the principle of introducing an adjustment to take account of constraints that exist within an area, however the specifics of such a mechanism would require careful consideration and further consultation. Further, it is suggested that this could also potentially be extended to include consideration of opportunities for redevelopment of brownfield land, given that this should be the first option for new development and such a consideration may help in supporting the viability of such development, particularly if appropriate mechanisms to support delivery of such sites are introduced in tandem.

However, unless it can be ensured that the underlying data which informs the ‘standard methodology’ is accurate, we consider that the current approach which requires the ‘standard methodology’ to be applied unless exceptional circumstances exist should continue, rather than making the new ‘standard methodology’ binding.

The new proposed ‘standard methodology’ being consulted upon within the *“Changes to the current planning system, Consultation on changes to planning policy and regulations”* highlights this issue. Shropshire Council is generally very supportive of the proposed methodology; however, Shropshire Council is very concerned with the suggested reliance on the 2018-based Sub-National Household Projections. This primarily relates to the decision by the Office for National Statistics to use only two years of migration data to inform a 25-year projection, which has resulted in what we consider to be totally inaccurate projections for Shropshire.

Question 8 (b) response: Yes

Shropshire Council considers that these factors are appropriate indicators of local housing need.

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

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

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

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

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

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

Government here is proposing there to be automatic outline planning permission in Growth Areas and approvals would also be available for pre-established development types in other areas suitable for building. Further details agreed and full permission achieved through a streamlined and faster consent route in one of 3 ways:-

(1) a reformed reserved matters process for agreeing the issues which remain outstanding;

(2) a Local Development Order prepared by LPA in parallel with the Local Plan linked to a master plan and design codes; or

(3) for very large sites a Development Consent Order under the Nationally Significant Infrastructure Projects regime

In Renewal Areas there would be a general presumption in favour of sustainable development to be granted in one of 3 ways:-

- for pre-specified forms of development such as the redevelopment of certain building types, through a new permission route which gives an automatic consent if the scheme meets design and other prior approval requirements (as discussed further under the fast-track to beauty proposals set out under Pillar Two);
- for other types of development, a faster planning application process where a planning application for the development would be determined in the context of the Local Plan description, for what development the area or site is appropriate for, and with reference to the National Planning Policy Framework; or
- a Local or Neighbourhood Development Order.

Question 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?

Question 9(a) response:- Yes

Subject to clarity regarding the range of information required from site promoters (which will be comparable to that required at Outline Planning Application stage, but earlier in the process) being provided. Otherwise negotiating what information is to be provided may cause significant delays to the plan making process.

However, Shropshire Council considers that it is important to recognise that:

- Much of the evidence base prepared to inform a Local Plan currently relates to the site assessment process and the level of scrutiny of sites would only increase as a result of this proposal. For context within the site assessment process undertaken to inform the ongoing Shropshire Local Plan Review, we considered in excess of 2,000 sites and are currently consulting on proposals to allocate around 80 sites in around 60 settlements with capacity for more than 9,000 dwellings.
- More information will be required from site promoters (such as landowners and developers) at the Local Plan stage, this may discourage some site promoters, particularly those associated with smaller sites who are less able to undertake the assessment work necessary to support an Outline Planning Application until they have the certainty of an allocation. This would have the perverse effect of discouraging site promotions, particularly from landowners without a developer and small and medium developers.
- There will be increased focus on the consultations undertaken during the Local Plan, as there is no subsequent opportunity through the Development Management process. This could also have implications for timescales and level of challenge

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

Question 9(b) response:- No

Shropshire Council considers that it is important to recognise that:

- Much of the evidence base prepared to inform a Local Plan currently relates to the site assessment process and the level of scrutiny of sites would only increase as a result of such proposals. For context within the site assessment process undertaken to inform the ongoing Shropshire Local Plan Review, we considered in excess of 2,000 sites and are currently consulting on proposals to allocate around 80 sites in around 60 settlements with capacity for more than 9,000 dwellings.
- More information will be required from site promoters (such as landowners and developers) at the Local Plan stage, this may discourage some site promoters, particularly those associated with smaller sites who are less able to undertake the assessment work necessary to support an Outline Planning Application until they have the certainty of an allocation. This would have the perverse effect of discouraging site promotions, particularly from landowners without a developer and small and medium developers.
- There will be increased focus on the consultations undertaken during the Local Plan, as there is no subsequent opportunity through the Development Management process. This could also have implications for timescales and level of challenge.

As such, Shropshire Council considers that the alternative approach suggested within Proposal 1, involving focusing outline planning permission/permission in

principle on larger sites within the 'growth' category of Local Plans, whilst other areas of land would, as now, be identified for different forms of development in ways determined by the local planning authority (and taking into account policy in the National Planning Policy Framework), and subject to the existing development management process, represents a more effective approach.

This would make the most effective use of Local Authority resources, ensure that timescales for the site assessment process do not significantly increase, ensure that the process is inclusive and does not exclude those landowners who are unable to undertake any necessary technical assessments required to support a site promotion and will allow communities a further opportunity to comment on the development of smaller sites through the Development Management process. Whilst also ensuring greater certainty for promoters of the larger sites which make significant contributions to the housing land supply.

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

Question 9c response: No

Shropshire Council is generally of the view that the decision for allowing new settlements to be brought forward should be determined at the Local Authority level as this process is best placed for ensuring involvement from relevant local communities and ensure consistency with other development proposals in the area.

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

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

The Government is seeking to make decision taking faster and more certain with firm deadlines and also to make greater use of digital technology.

In particular it proposes:-

- that the 8 or 13 week deadline should be a firm deadline, not an aspiration with an extension of time agreed
- To integrate validation requirements at submission
- For Government to provide investable proposal for modernising planning systems in local government
- Modular software landscape to automate routine processes to support faster decision tasking – more codification...more screening more certainty.
- To reduce information requirements and make machine readable linked to a national data standard for simple applications
- To Standardised supporting statement (50pages max) for major planning applications
- To provide an automatic refund of the planning fee for the application if LPA fails to determine it within the time limit

- For some types of applications should be deemed to have been granted planning permission if there has not been a timely determination
- To ensure that the facilities and infrastructure that communities value, such as schools, hospitals and GP surgeries, are delivered quickly through the planning system.
- That by ensuring greater certainty about the principle of development in Local Plans, Government expects to see fewer appeals being considered by the Planning Inspectorate

Question 10 response: Elements of this proposal are welcomed, such as streamlined validation requirements, Shropshire Council already adopts this approach but proposals for digitally supported validation processes would be welcomed.

The performance sticks element of this proposal are not agreed and could have unforeseen outcomes. Shropshire Council maintains a very positive outcome focussed approach to planning decisions. There is a light touch approach to validation that was agreed in consultation with planning agents and developers some years ago. The approach was agreed on the basis that if the agent/developer did not submit information necessary to determine a planning application at the time of submission then the application would not be determined until it was. This means sometimes it will take longer than the 8 or 13 week deadline. The Council deals with over 5,500 regulatory decisions each year. Over 91% of planning applications are approved. 89% are determined in a timeframe agreed with the applicant and 89% are also determined in accordance with the views of the parish council demonstrating strong community alignment. If firm performance measures are approved then the approval rate is likely to decline in order to maintain performance overall. In addition the Development Management team has undertaken a comprehensive process review supported by the Planning Advisory service and this demonstrated that for simple planning applications the consideration time has been reduced by 25% to around 40 days overall. In a county rich in environmental designations covering the historic and natural environment it is not always possible to determine applications quickly unless the validation requirement is strengthened and applicants are prevented from making applications until all necessary information is submitted. This may not align with the governments stated aim of cutting red tape and making the process simpler.

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

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

Government considers that Local plans should be visual and map based, to a standardised template and based on the latest digital technology. It aims to publish a “model” template for Local Plans and subsequent updates, well in advance of the legislation being brought into force. The text-based component of plans would be limited to spatially-specific matters and capable of being accessible in a range of different formats, including through simple digital services on a smartphone.

It proposes that digital plans should be carefully designed with the user in mind and to ensure inclusivity, so that they can be accessed in different formats, on different devices, and are accessible and understandable by all. A new digital civic engagement processes will be enabled, making it easier for people to understand what is being proposed where and how it will affect them. These tools have the potential to transform how communities engage with Local Plans, opening up new ways for people to feed their views into the system, including through social networks and via mobile phones to reach a broader audience (younger people).

Question 11 response: Yes

Shropshire Council supports the principle of accessible, web-based Local Plans. We recognise that such an approach is consistent with how other sectors are evolving and presents an opportunity to extend the reach of consultations. Although it is important to ensure that:

- Such changes continue to effectively include those who ‘get involved’ through current mechanisms.
- It is recognised that some do not engage in the process through choice rather than because of the chosen mechanisms for consultation and that this is unlikely to change.

Importantly this would need to be reflected in changes to the examination process, reducing the amount of paper copies required. This could also result in cost savings as a result a reduction to the amount of necessary printed material.

With regard to the references to ‘more limited evidence’ we would reiterate the point that much of the evidence prepared in support of Local Plans is that necessary to undertake a robust site assessment process. The Council does not consider that there will necessarily be a significant reduction in the level of evidence required, particularly if site allocations are to benefit from outline planning permission or permission in principle, which may in fact increase the amount of evidence required during the site assessment and allocation process.

Additionally, with regard to the use of 3D visualisations and other tools to support community engagement, it is important to consider what is an appropriate scale for such mechanisms, otherwise this could represent a significant additional administrative burden which potentially ‘slows’ the plan making process.

By way of context, Shropshire Council is currently undertaking a Local Plan Review, as part of this process we considered in excess of 2,000 sites through our site assessment process and are currently consulting on proposals to allocate around 80 sites (ranging in size from 7 dwellings to 1,500 dwellings, with total capacity for in the region of 9,000 dwellings) in around 60 settlements.

Furthermore, as per the Council’s response to Q6 of this Consultation, in recognition of the diversity of the communities, settlements and the built and natural environment in this Country, we consider that it is important for general development management policies to be included within Local Plans, **where they supplement and/or provide local distinction to the national suite of policies, such policies**

should form part of future accessible, web-based Local Plans, the methods of integrating such policies into a web-based Local Plan would need to be considered.

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

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

The Government is proposing a statutory duty for local authorities to adopt a new Local Plan by a specified date – either 30 months from the legislation being brought into force, or 42 months for local planning authorities which have adopted a Local Plan within the previous three years or where a Local Plan has been submitted to the Secretary of State for examination. In the latter case, the 42 month period would commence from the point at which the legislation is brought into force, or upon adoption of the most recent plan, whichever is later.

For Shropshire proceeding with the current plan review would mean that it would need to have been reviewed in full only 3.5 years from adoption.

Plans to be reviewed otherwise every 5 years and Government interventions proposed for those LPAs that do not meet these requirements

Alternative options proposed by Government are:-

1) Speed up existing examination process by removing the automatic right to be heard or to deal with simpler plans through a written representations process.

(2) to remove the Examination stage entirely, instead requiring Local Planning Authorities to undertake a process of self-assessment against set criteria and guidance. However, there is a risk that this option wouldn't provide sufficient scrutiny around whether plans meet the necessary legal and policy tests

Question 12 response: No

Despite Shropshire Council's track-record in expediently producing Local Plans (Core Strategy and SAMDev Plans adopted and a CIL Charging Schedule adopted since the formation of Shropshire Council in 2009 and a significant review of the Local Plan Review is currently ongoing and well advanced), Shropshire Council has significant concerns about the ability to prepare a Local Plan in a 30-month period, even with a scope which focuses on identifying land as 'protect' 'growth' or 'renewal'. This is because:

- Much of the evidence base produced to inform a Local Plan is that required to undertake a robust site assessment process. This evidence such as strategic land availability assessments, a form of Sustainability Appraisal (extent dependent on changes proposed through this consultation), landscape and visual assessments, flood risk assessments, water cycle studies, highway assessments, ecology and tree assessments, heritage assessments, public protection assessments, Green Belt assessments, strategic assessments etc will still be required. Compiling this evidence, some of which have inter-dependencies or require earlier evidence to be available before it can be

prepared within suggested timescales would be very challenging, if not unachievable.

- Proposals within this 'White Paper' will mean that the scope and robustness of the site assessment process required within the Local Plan process is wider and higher given that proposed allocations could potentially have 'outline planning permission' or 'permission in principle', this will increase timescales for the assessment process.
- Proposals within this 'White Paper' will also mean that more information will be required from site promoters at the Local Plan stage, obtaining this information may have implications for timescales.
- The number of sites that require assessment will vary very significantly between Local Authorities, this has a direct implication for timescales and this needs to be given due consideration. For instances whilst some Local Authorities have only a small pool of sites, others will have a very significant number to consider (as previously documented within our response to this consultation, the site assessment process undertaken to inform the ongoing Local Plan Review in Shropshire considered in excess of 2,000 sites).
- The assessment of sites also needs to be informed by a strategy for the distribution of development, again the options available will vary significantly between Local Authorities and this needs to be given due consideration.
- Given that proposals seek to focus consultation at the plan making stage, we are concerned that the timescales suggested within this consultation will not allow for such consultation to occur. Furthermore, whilst increased interest at the Local Plan stage is positive, it does of course have implications for timescales of response analysis (for context within a recent consultation focusing on levels, distribution of development and site allocations (no general development management policies were included), undertaken to inform the ongoing Local Plan Review for Shropshire, we had in excess of 3,000 responses, many of which were extensive, this took considerable time and resource to review).

Furthermore, as stated in the Council's response to Q6 of this Consultation, in recognition of the diversity of the communities, settlements and the built and natural environment in this Country, we consider that it is important for general development management policies to be included within Local Plans, where they supplement and/or provide local distinction to the national suite of policies, such policies should form part of future accessible, web-based Local Plans. This will clearly need to be considered when establishing appropriate timescales for the Local Plan process.

Consequently the Council would suggest a **five-year Local Plan cycle**, although this could be somewhat reduced if appropriate speeding-up of the examination process is undertaken, whilst still ensuring it remains robust.

Shropshire Council continues to support the requirement for a five-year review of the Local Plan and also supports the suggestion that reviews could be undertaken

earlier if there are significant changes in circumstances such as a failure to deliver necessary development.

However, Shropshire Council considers that a longer transition period is required for Local Authorities with recently prepared Local Plans or those close to or in the process of examination/adoption of Local Plans. Specifically, this transition should align with the five-year review period suggested for updates of the Local Plan – a review should commence within five-years of adoption.

Without such measures, there is a risk that:

- Local Authorities and all those who were involved in the preparation of Local Plans (including those engaged in the consultation process) are left with significant abortive work;
- Local communities are left with uncertainty about the status of Local Plans and value of the Local Plan process;
- There are additional delays to plan-making and resultant development; and
- New development is determined via planning by appeal rather than a plan-led approach.

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

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

Question 13(b). How can the neighbourhood planning process be developed to meet our objectives, such as in the use of digital

The Government considers that neighbourhood plans should be retained as an important means of community input to the planning process and indicates that it will support communities to make better use of digital tools

Question 13 (a) response: Yes

Shropshire Council is very supportive of Neighbourhood Plans.

Question 13(b) response: Shropshire Council considers that there are opportunities to integrate digital tools into the Neighbourhood Plan process, in a similar way to the Local Plan process. Indeed, aligning these changes would allow 'lessons learned' at the Local Authority level to be disseminated to communities.

However, we also consider that it is important to ensure that use of digital tools complements and is within the skill-set available to local communities.

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

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

The Government would like a stronger emphasis on the faster delivery of development, especially for Growth areas. Masterplans and design codes for sites should be prepared for substantial development and should seek to include a variety of development types by different builders which allow more phases to come forward together.

Government will explore further options to support faster build out as we develop our proposals for the new planning system.

Question 14 response:- Yes

Shropshire Council supports the concept of placing greater emphasis on building-out development within appropriate timescales. However, it is important to note that this is ultimately the responsibility of the development industry and the mechanisms that are available to ensure that this occurs need careful consideration and to be directed towards the development industry. Removing a consent from a site or removing a site from the supply ultimately does not resolve the issue of delivery of the site.

The principle of ensuring a diverse range of housing types/options are delivered on a site is one supported by Shropshire Council and is already one integrated into many Local Plans, although primarily in recognition of its potential to ensure that local needs are met, rather than to speed-up delivery. We do agree that this could positively influence rates of delivery by extending the range of needs being met and therefore the range of people interested in purchasing properties, although the capacity of the developer and market will remain key factors influencing build rates.

The concept of encouraging multiple developers on a site is more challenging as ultimately this is determined by the land market and not the planning process. Whilst increasing numbers of outlets on a site will increase delivery, how can this be achieved if the land is owned/options by a single developer? Furthermore, the increase that can be achieved will again be capped by market capacity.

Questions 15- 20 Pillar 2: Planning for beautiful and Sustainable Places

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

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

The Government considers that Creating a simpler quicker planning process is the starting point. It would like a system in place that enables the creation of beautiful places that will stand the test of time, protects and enhances our precious environment, and supports our efforts to combat climate change and bring greenhouse gas emissions to net-zero by 2050. It should generate net gains for the quality of our built and natural environments - not just 'no net harm'. It is

Governments view that the Building Better, Building Beautiful Commission has shown, all too often that potential has fallen short.

Question 15 response; The Council would support the Government's aim to raise design quality generally. Better designed buildings and places contribute direct to well being, are more sustainable and more likely to be accepted by communities. Shropshire Council has taken steps to improve design quality through the introduction of a design awards scheme, by adopting the West Midlands Regional Combined Authority Design Charter as a material planning consideration and by commissioning master planning work in larger towns to facilitate a positive design framework and investable masterplan. Importantly the focus of many planning departments in maintaining a 5 year housing land supply has been on delivering numbers and the reality is that this has sometimes been at the expense of quality. Developers will provide quality provided there is a level playing field and consistency. If Government is serious about raising design standards then it should support decision takers that place a greater emphasis on design through their decision and at appeal where appropriate. The tension here is between quantity (of housing) and quality. Further more resources in planning departments do not always include all necessary skill sets to drive up architectural quality

Question 16. Sustainability is at the heart of our proposals. What is your priority for sustainability in your area? Less reliance on cars / More green and open spaces / Energy efficiency of new buildings / More trees / Other – please specify

This picks upon the preamble to question 15.

Question 16 response: Shropshire Council is of the view that any consideration of sustainability must place a greater emphasis on preventing, mitigating and adapting to climate change.

Furthermore, whilst Shropshire Council very much supports the aim of planting more trees within development; it must be recognised that requiring all streets to be tree-lined would reduce the amount of developable area in new sites and may ultimately lead to more greenfield land being required for development – there are also potential issues with services and reinstatement in the future.

With regard to Proposal 15, Shropshire Council would also note that one of the obstacles to mitigating climate change through the planning system is Footnote 49 of NPPF which only permits wind energy development;

- In areas identified as suitable in the Local Plan; and
- where planning impacts identified by the affected local community have been identified and fully addressed; and
- when the proposal has their backing.

This severely restricts onshore wind energy at a time when public opinion is turning in favour of addressing climate change and wind energy development is being seen

as necessary and acceptable. A more permissive approach which recognises and safeguards the natural and historic environment, including landscape character and visual amenity, should be adopted.

Shropshire Council also supports the intention of Proposal 18 to clarify the role that Local Authorities can play in energy efficiency standards for new buildings. As things stand, Building Regulations are the main mechanism for improving energy efficiency, but the planning system can have a useful and complementary role to play. The planning system also has the advantage of being responsive to public concerns and including energy efficiency in its remit would send a strong signal that both national and local government is serious about reducing carbon emissions.

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

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

Here Government confirms the importance of Identifying local character and community preferences, to learn from the past and recommends that Council's should use the National Design Guide which defines 10 characteristics of successful places. It confirms that Government will publish a National Model Design Code and a revised Manual for Streets

Question 17 response: The Council supports the principle of raising the design standards for new development, it has led this process through the introduction of local design awards, introduced a design accreditation scheme published ambitious design led regeneration proposals through its Big Town Plan and adopted the West Midlands Combined Authority Design Charter as a material planning consideration. The reality is that the development sector will raise design standards where there is a consistency of policy requirements and a clear indication that design standards or coding would be adhered to and supported at appeal if required. In a context where housing delivery in recent years has focussed on quantity rather than qualitative factors there would need to be a clear indication that where a design code applies it would be supported if tested at appeal. While the principle of design codes is in principle supported their production at a local level will require skills and resources which may not exist currently in local authorities and this would present an additional cost burden then to bring these forward at scale, particularly in a large rural geography where there may be a diverse range of locally distinctive building types and materials.

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

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

The Government wants to ensure community engagement with designs codes and indicates that these should only be given weight in the planning process if they can demonstrate that this input has been secured. It encourage LPAs to develop design

skills within their teams and says it will introduce proposals to improve the resourcing of planning departments more broadly; some re-focusing of professional skills. It recommends that each authority should appoint a chief officer for design and place-making, as recommended by the Building Better, Building Beautiful Commission.

Question 18 response: As with the response to question 17 this would be supported in principal but clearly there are resource implications for the Local Authority in producing design codes in consultation with local communities and recruiting design expertise to include a chief officer. The Government acknowledges this resource implications for Local Authorities but provides no clarity as to how this is to be met and implying that “re-focussing” resources indicates that this would be changing the staff skills profile rather than adding to 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 / No / Not sure. Please provide supporting statement.

The Government confirms in the white paper that to further embed national leadership on delivering better places, we will consider how Homes England’s strategic objectives can give greater emphasis to delivering beautiful places.

Question 19 response: Shropshire Council supports this in principle.

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

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

The White Paper indicates that the Government intends to introduce a fast-track for beauty through changes to national policy and legislation, to incentivise and accelerate high quality development which reflects local character and preferences – updating the National Planning Policy Framework, schemes which comply with local design guides and codes have a positive advantage and greater certainty about their prospects of swift approval. In growth areas legislation will require that a masterplan and site-specific code are agreed as a condition of the permission in principle which is granted through the plan. It intends to legislate to widen permitted development so that it enables popular and replicable forms of development to be approved easily and quickly, helping to support ‘gentle intensification’ of towns and cities, but in accordance with important design principles – pattern books

Question 20 response: This places a significant reliance on the quality of design codes to test development proposals against. In a location where there is a rich and diverse architectural heritage as in Shropshire this could mean a more comprehensive approach similar for example to the Essex Design Guide first published in 1973 and revised latterly in 2005 which provided a benchmark for residential design across the County. This would require significant resources to commission and deliver.

Questions 21 to 26 Pillar Three: Planning for Infrastructure and Connected Places

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

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

The Government notes that the Environment Bill currently before Parliament will legislate for mandatory net gains for biodiversity as a condition of most new development. All new streets should be tree-lined. Managing flood risk may need to be strengthened along with developing a national framework of green infrastructure standards

Strategic Environmental Assessment, Sustainability Appraisal, and Environmental Impact Assessment – can lead to duplication of effort and overly-long reports which inhibit transparency and add unnecessary delays. Outside of the European Union take the opportunity to strengthen protections that make the biggest difference to species, habitats and ecosystems of national importance, and that matter the most to local communities processes for environmental assessment and mitigation need to be quicker and speed up decision-making and the delivery of development projects. The environmental aspects of a plan or project should be considered early in the process, and to clear timescales.

National and local level data, made available to authorities, communities and applicants in digital form, should make it easier to re-use and update information and reduce the need for site-specific surveys.

Question 21 response: Within Shropshire key infrastructure priorities (in no particular order) include:

- Affordable housing;
- Necessary highway infrastructure;
- Education and health facilities;
- Open space and associated leisure facilities; and
- Infrastructure to respond to our changing climate.

Employment and retail provision are other priorities for inclusion within the development mix rather than as separate infrastructure provision.

Question 22(a). Should the Government replace the Community Infrastructure Levy and Section 106 planning obligations with a

new consolidated Infrastructure Levy, which is charged as a fixed proportion of development value above a set threshold?

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

The Government considers that The Community Infrastructure Levy should be reformed to be charged as a fixed proportion of the development value above a threshold, with a mandatory nationally-set rate or rates and the current system of planning obligations abolished. The current system of planning obligations under Section 106 should be consolidated under a reformed, extended 'Infrastructure Levy

Question 22a response: Not sure

Shropshire Council considers that there is some potential for improving the CIL / S106 approach to securing planning obligations from development, however a more comprehensive proposal, with a clear indication of its implications is required before we can robustly comment.

We would need to fully understand what the thresholds would be, who would set them and how they are determined and then how the appraisals will be checked and validated. As per policy it is up to the applicant to show viability as part of the planning process, this increases time and expense.

The advantage of a system using both CIL and S106 is that you have CIL to secure a clear, consistent and transparent contribution to infrastructure provision, and flexibility from S106 to capture additional infrastructure contributions where there are requirements beyond those which can be afforded by the CIL achieved and sufficient viability exists within the development to secure such contributions. S106 Agreements also provide a clear and separate mechanism for securing affordable housing contributions. It is considered that this approach provides a level of certainty to communities and the development industry, whilst maintaining flexibility in situations where a development has infrastructure requirements beyond those more generally required.

Whilst there are timescales associated with the negotiation of such s106 obligations, these can be minimised where all parties engage proactively in the process.

Shropshire Council is concerned that if any new infrastructure levy process is too rigid and infrastructure contributions are uncertain until development is at/near completion, development proposals may need to be refused as there is no certainty about whether necessary supporting infrastructure can be achieved.

Additionally, if payment of any future infrastructure levy is linked to completion of development, there is significant risk to the Local Authority to secure affordable housing on-site and the process suggested would still involve significant negotiation not dissimilar to that of a S106 legal agreement, but without the associated security (which may mean some form of legal agreement is required anyway).

There is also a risk that if payment is linked to completion, developers may no longer have funds to make payments as they have already been invested elsewhere. Also, ultimately what measures are available following completion to secure payment? The

site will be built out and the land in a myriad of different ownerships. From a conveyancing perspective this could lead to significant risk to potential purchasers and delay sales of properties – in turn impacting on build-out rates.

Furthermore, if the payment of any future infrastructure levy is linked to completion of a development, a situation could arise where developments are deliberately not completed to defer/avoid payment of the levy.

It is appreciated that the aim of this is to assist developer with budgeting etc and reduce cashflow difficulties, however this would have a huge impact on the Council's ability to collect the debt;

Shropshire Council already currently experiences difficulties obtaining payments from small developers upon completion of the build. . Developers have often used the current (S106) extended payment timescales to install a high-end finish to properties, and funds are subsequently not available at the time payment is due as they have overspent on the project. This is more prevalent in Shropshire where the development profile is geared to more smaller sites. Extending this payment due date to 'upon occupation', would exacerbate this problem even further.

There appears to be an assumption that developers 'want' to pay the contributions and whilst most do (eventually), there is increasing resistance to pay the contribution in full at the required time. This has resulted in payments being made by instalments (mainly small developers or one-man-band), resulting in increased admin and officer time tracking payments received.

The current finance 'Pre-action Protocol' does not support extending payment terms in this way. Due to the current economic climate, the protocol aims to discourage organisations taking individuals to court to collect outstanding debts. More support appears to be given to individual debtors, rather than the organisation trying to collect a debt.

Presumably, the new Levy would be paid by the developer? If the new Levy is payable at the point of occupation, it would be difficult to collect this once the developer has parted with their interest in the land. If the Levy is to be paid by the new homeowner, there is an assumption that the homeowners Solicitor would identify the debt from Land Charges searches. Increasingly, this does not appear to be the case.

We already experience difficulties where contributions are to be paid 'upon occupation'. This is a very difficult trigger point to monitor and the onus would be on the Council to continually check numbers. We would simply be unable to rely on the developer/home owner informing the Council at the appropriate time. Often we are unaware of when land ownership changes hands and are reliant on Land Registry searches to confirm this has occurred. 'Pending' applications with Land Registry often take months to process, so up-to-date data would not be immediately available. In addition, data collected by the Council does not assist in identifying properties that are 'occupied'. Whilst Council Tax data is able to identify properties which are 'registered' for CT, this does not mean that the property is occupied. Unfortunately

Council Tax are not able to openly share data with us and the occupier of a property is not always the owner.

How would the Council be able to prevent occupation in the event of non-payment? Would this involve enforcement or legal action?

On site provision of affordable housing is a priority in order to ensure integrated and inclusive communities. It is also considered a more cost-effective means of delivering affordable housing.

Whilst we recognise that it is important to maintain cash flow for developers, it is equally important to ensure that infrastructure funding is secured at the earliest possible opportunity to allow for early infrastructure delivery. Relying on Local Authorities to lend against future infrastructure levy receipts, when the amount and timescales of any payment are unknown places a significant risk on Local Authorities.

Shropshire Council currently secures on-site affordable housing at 50% occupation of the site or phase and this has worked well, giving the developer an opportunity to receive income from sales and ensuring the affordable dwellings are provided on the site well before completion and so mitigating the problems raised above. Financial contributions are collected 12 months after commencement.

As such, Shropshire Council considers that there are clear benefits of linking payment and fixing the value of any future infrastructure levy to commencement of development, with an appropriate lag-period (say 6-9 months) before any first instalment is due. This will ensure that development once commenced is progressed and as such has the additional benefit of acting as an incentive for progression and timely build-out of a development site. Provided development is progressed at reasonable timescales, market conditions should not significantly vary, although we do consider that there is some merit in allowing appropriate phasing of very large sites. This will also provide greater certainty to the development industry, communities and local authorities.

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

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

Government considers that the Infrastructure Levy should be a flat rate charge set nationally.

Question 22b response : Whilst Shropshire Council recognises the potential benefits of a single rate across the country, including consistency, transparency and simplicity (particularly for the development industry), the significant variances in viability mean that such an approach would be extremely challenging to achieve and would likely not allow for appropriate capturing of the varied uplift to land values

resulting from Planning Permission. As such a more flexible approach which embraces local distinctiveness is more likely to be appropriate.

Shropshire Council considers that the rate should be established either nationally at an area specific rate (dependent on the extent of these areas) or locally. The most appropriate of these two options will depend on the ultimate methodology used to establish the rate. If the methodology allows sufficient flexibility to recognise the extensive variations in viability both across the Country and within Local Authorities, then a national area specific approach may be appropriate as this would offer benefits such as consistency, transparency and simplicity. Another risk of a nationally calculated area specific rate is that it would result in lower value areas achieving very limited or no affordable housing. If such variances and risks cannot be fully recognised it may be best for a locally established rate, otherwise there is a real risk that more viable areas/pockets will be masked by the more general viability of an area.

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

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

The Government considers that the Infrastructure Levy should be charged on final value of a development (or to an assessment of the sales value where the development is not sold, e.g. for homes built for the rental market), based on the applicable rate at the point planning permission is granted;

- be levied at point of occupation, with prevention of occupation being a potential sanction for non-payment;
- include a value-based minimum threshold below which the levy is not charged, to prevent low viability development becoming unviable, reflecting average build costs per square metre, with a small, fixed allowance for land costs. Where the value of development is below the threshold, no Levy would be charged. Where the value of development is above the threshold, the Levy would only be charged on the proportion of the value that exceeded the threshold and provide greater certainty for communities and developers about what the level of developer contributions are expected alongside new development

Question 22c response: Shropshire Council considers that any new infrastructure levy should aim to capture the maximum amount of uplift in land value possible, whilst also maintaining the viability of development. Ideally this would be at least the same amount as currently achieved if not more, but this will depend on development viability. The reality is that existing contributions are difficult to collect and we believe there would be resistance if the LPA attempts to collect a higher level of funding from developers, particularly in the current economic climate

For information, over the last 4 years Shropshire Council has had an impressive track record in relation to securing infrastructure contributions. Specifically, we have received:

- A total of 1,387 new affordable homes through a combination of S106 sites and exception sites, this is an average of 346 new homes each year and a total of 21% (average) of all housing completions being for an affordable tenure.
- Around £8,200,000 in S106 financial contributions for affordable housing, this is an average of around £2,100,000 per year.
- Around £6,800,000 in S106 financial contributions towards other forms of infrastructure, this is an average of around £1,700,000 per year.
- Around £30,100,000 of CIL contributions towards infrastructure, this is an average of around £7,500,000 per year.

It would be beneficial to see the calculations based on the new proposed infrastructure levy to understand whether this would be more, less or the same.

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

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

Question 22d response: If a new infrastructure levy is introduced linked to completion of development then Shropshire Council considers that in principle, yes, borrowing should be allowed as this is a necessary flexibility to allow for up-front delivery of infrastructure.

However, we are concerned that if the amount and timescales for achieving any infrastructure levy from development are unknown then this places a significant risk on Local Authorities. There would be an increased risk to the Council and far greater pressure put on the monitoring teams to collect the contributions in a timely manner. Again, there appears to be an assumption here that all developers will pay at the appropriate time. This is simply not the case. Strict controls would obviously be required and whilst we would not anticipate problems collecting debts from National developers, borrowing against revenues from smaller developers would need careful consideration due to the increased risk to the Council. As such it is important that a level of certainty about the value of the levy is provided, perhaps by linking the amount and timescales for payment to commencement of development. As suggested elsewhere, this would have the added benefit of acting as an incentive for progression and timely build-out of a development site.

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

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

The scope of the Infrastructure Levy could be extended to capture changes of use through permitted development rights. The Government considers this approach would increase the levy base, and would allow these developments to better contribute to infrastructure delivery and making development acceptable to the community. However, the Government intends to maintain the exemption of self and custom build development from the Infrastructure Levy.

Question 23 response: Yes

All development has an infrastructure burden, whether individually or cumulatively should appropriately contribute. Importantly this also includes many of those currently exempt from CIL such as self-build housing and conversions with no additional floor space but which result in a more intensive use of infrastructure. In reality 100 self-build dwellings likely have a larger impact cumulatively on infrastructure than a single 100 dwelling development, which through the development provides necessary infrastructure.

It should also include smaller development schemes which are currently exempt from affordable housing contributions, such as sites of less than 10 dwellings, as these equally impact on infrastructure and otherwise a disproportionate burden is placed on larger developments. Furthermore, in some more rural communities where no large-scale development arises, no contributions are secured to necessary infrastructure provision (which at worst means development proposals need to be refused).

Provided contributions are established at an appropriate level, viability should remain.

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

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

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

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

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

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

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

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

The Government considers that the reformed Infrastructure Levy should deliver affordable housing provision. This could be secured through in-kind delivery on-site, which could be made mandatory where an authority has a requirement, capability and wishes to do so. Local authorities would have a means to specify the forms and tenures of the on-site provision, working with a nominated affordable housing provider

In the event of a market fall, we could allow local planning authorities to 'flip' a proportion of units back to market units which the developer can sell, if Levy liabilities are insufficient to cover the value secured through in-kind contributions. Alternatively, we could require that if the value secured through in-kind units is greater than the final levy liability, then the developer has no right to reclaim overpayments. Government could provide standardised agreements, to codify how risk sharing would work in this way

Alternative option: We could seek to introduce further requirements around the delivery of affordable housing. To do this we would create a 'first refusal' right for local authorities or any affordable housing provider acting on their behalf to buy up to a set proportion of on-site units (on a square metre basis) at a discounted price, broadly equivalent to build costs

Question 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?

Question 24 (a) response: Yes

Shropshire Council considers that delivery of affordable housing is a local and national priority. On site provision of affordable housing is considered the most effective means of delivery both in terms of cost and the benefit to communities (schemes integrating a range of types, tenures and affordability of housing are best able to support strong and inclusive communities and lead to higher quality design).

However, if payment of any future infrastructure levy is linked to completion of development, there is significant risk to the Local Authority to secure affordable housing be provided on site and the process suggested would involve significant negotiation not dissimilar to that of a S106 legal agreement.

Currently in Shropshire we have 3 defined areas for calculating the affordable housing contributions, (which through the local Plan review will be amended to two) and these have been based on a robust evidence base and vigorous viability testing. This has ensured that we have been able to secure both on site and financial contributions for all schemes larger than 6 units or more in designated rural areas and 10 units or more in other areas.

For information, as documented in our response to Question 22(c) over the last 4 years Shropshire Council has had an impressive track record in relation to affordable

housing completions and securing financial contributions to support affordable housing delivery. Specifically, we have received:

- A total of 1,387 new affordable homes through a combination of S106 sites and exception sites, this is an average of 346 new homes each year and a total of 21% (average) of all housing completions being for an affordable tenure.
- Around £8,200,000 in S106 financial contributions for affordable housing, this is an average of around £2,100,000 per year.

This is alongside securing contributions to other forms of infrastructure. It would be beneficial to see the calculations based on the new infrastructure levy to show the amount of on-site affordable housing and off-site financial contributions we could obtain to see how they compare.

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?

Question 24b response: Not sure

Shropshire Council considers that until there is further detail on the specific mechanisms proposed for securing an infrastructure levy it is difficult to provide a robust response.

Certainly, if the trigger point for this mechanism was linked to commencement in the way we have suggested under Question 22(a) we could see some merit in the in-kind approach. This trigger point would of course also act as an incentive for developers to progress their development within reasonable timescales.

If the mechanism is linked to completion there is significant risk and extensive negotiation would be required which would have implications for timescales, the volume of affordable housing achieved and ultimately the value of such a mechanism.

Shropshire Council was one of the first adopters of the Community Infrastructure Levy (CIL) and have used in kind payments in the past. Our experience is that this has been a very time-consuming and costly process and there is a real risk that this would be the same under any new system, particularly as there would be no existing legal agreement (as S106 agreements would be removed) to secure these units under. As such we would encourage careful consideration of this matter as it could result in time-consuming and costly discussions, culminating in an agreement very similar to a S106 agreement.

Furthermore, there is a real risk that allowing affordable units to flip back to market units if circumstances change will be an easy way out for developers to provide less affordable housing, currently they would need to look at cost savings etc before asking for a viability appraisal as the number of on site and financial contributions are set. This would mean further appraisals will be required throughout the development process.

It would also mean that this could be the first form of levy contribution lost if economic conditions worsen as the 'expected' financial aspects may already have been committed to other forms of infrastructure and are therefore required to repay against borrowing.

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

Question 24 c response: Yes

Shropshire Council agrees that there would have to be some form of protection for Local Authorities if payment is linked to completion of development. However, this complexity could be avoided if payment was linked to commencement. This would also act as an incentive for developers to progress their development within reasonable timescales.

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?

Question 24(d) response: Yes

Shropshire Council considers that affordable housing should be indistinguishable for open market housing and this should be the starting point for any in-kind delivery. As such, whilst we support the proposal for Local Authorities to have an option to revert back to cash contributions if no provider was willing to buy the homes due to their poor quality, we would also encourage the ability for Local Authorities (supported by a Registered Provider) to select a different unit on the site of a similar type, where they are available, in-place of the poor-quality unit. This would reduce the risk that developers deliberately construct poor-quality housing to avoid on-site provision of affordable housing.

In Shropshire, as part of the ongoing Local Plan Review, the Council is proposing policies which stipulate that all affordable dwellings provided on a site should be of a certain size and standard. Similar policies could be provided at the national level to mitigate this risk.

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

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

The Government proposes more freedom could be given to local authorities over how they spend the Infrastructure Levy and could increase local authority flexibility, allowing them to spend receipts on their policy priorities, once core infrastructure obligations have been met.

Question 25 response:- Shropshire Council is supportive of an appropriate proportion of the infrastructure levy being provided to local communities to deliver local infrastructure priorities. However, if the infrastructure levy is to also cover affordable housing the specific proportion will require careful consideration. The reason many Local Authorities have not introduced CIL is due to viability and a very

high need for affordable housing, meaning all contributions are targeted towards affordable housing provision. There is a real risk that this proposal could reduce the level of affordable housing being delivered in many areas. Alternatively, it could result in all funding being directed towards affordable housing and no other necessary infrastructure being provided.

With regard to the flexibility of use of infrastructure levy funds, Shropshire Council would highlight that the infrastructure needs within an area are generally so significant that infrastructure funding secured will only fund a small proportion of it, as such infrastructure delivery should remain the focus for infrastructure levy funds.

Question 25(a). If yes, should an affordable housing ‘ring-fence’ be developed

Question 25a response: Yes

Shropshire Council considers that this would be important to recognise the need for such housing

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?

Question 26 response :- Not being able to negotiate on a site by site basis will make it more difficult to secure larger and/ or adapted properties or those for tenants with specialist needs.

Additional Comments

Planning Enforcement: Proposal 24 of the White paper indicates that Government intends to strengthen enforcement powers and sanctions with:-

- more emphasis on the enforcement of planning standards and decisions. Planning enforcement activity is too often seen as the ‘Cinderella’ function of local planning services
- to review and strengthen the existing planning enforcement powers and sanctions available to local planning authorities to ensure they support the new planning system. We will introduce more powers to address intentional unauthorised development, consider higher fines, and look to ways of supporting more enforcement activity.
- to strengthen national planning policy against intentional unauthorised development and ensure temporary stop notices are more effective

Enforcement teams are generally under resourced, there are growing demands some arising from breaches of planning control taking place during or because of the Covid 19 pandemic. More needs to be done to provide enforcement teams with clear effective powers to bring significant breaches to a close.

The system is largely based on voluntary compliance to abide by the planning permissions and permitted development rights. To pursue formal action, is time

consuming and stacked heavily in the favour of those infringing powers who have opportunities to delay the process repeatedly. Even where a notice is served, that is not the end of the issues and should that fail to bring a resolution, then it is often referred for court action, and the courts can only seek to instruct again and offer fines.

The direct action power, whilst available, do not come with funding and expertise to follow this through. Such action could be the most suitable and effective solution, as the breach would be remedied as a result and costs recharged against the land.

The planning portal has been an effective central point for assimilating information for new planning cases. This might be a good place to have a centralised point to raise planning enforcement cases, which are then distributed to LPA's, the same way as applications are.