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## **Introduction**

This is Oxford City Council's officer response to the White Paper: Planning for the Future. This response was noted at Cabinet on 14<sup>th</sup> October 2020.

Oxford is a city that wants to grow in a sustainable way, and build on its successful economy. We need more housing, although the constraints of the city means that we have worked hard with our neighbours to find a strategic approach to distributing our unmet need, much of which will be met through allocations in the Green Belt surrounding Oxford. The best way for cities to be able to grow is to have a flexible and locally informed approach, with bespoke policies. The proposals will backfire for compact urban authorities and act to prevent needed growth.

We have no in principle objection to reforming the planning system to improve quality and efficiency, but we do not think the solutions are the right ones for the stated objectives, and we do not think that a new planning act is needed to achieve change.

Many of the themes and stated objectives of the White Paper cannot be objected to because they are universally accepted as good things, such as 'more democracy' and 'sustainable development'. Yet the proposed reforms that lie underneath these are not informed enough or developed enough to achieve the stated intentions, and often would actually achieve the opposite. Stating something such as 'more democracy' is going to be an outcome, does not in any way mean it will be the outcome; not when the proposals are clearly not heading in that direction.

The planning system created by the Town and Country Planning Act 1947 strikes a balance between the rights of individual landowners and the rights of past, present and future citizens. That balance is sometimes difficult to manage, but on the whole it has worked. It is flexible, which has helped it to stand the test of time. This flexibility has allowed local responses to local issues, which is essential to a system that works. The fundamental basis of the system does not need to be broken apart. Yet the proposals are breaking it apart, and instead proposing something that over-simplifies the system, attempting to make as many decisions as possible nationally. This will mean a failure to respond to the unique qualities and needs of different places. Oxford for example has a unique set of opportunities and challenges, with a very successful economy, a constrained area, a severe shortage of affordable housing and a world-renowned historic environment. Only with flexibility to respond to this locally can the right outcomes be achieved. The proposals will lead to less appropriate development and a reduction in engagement and democratic process.

A summary of our overarching concerns is set out below as part of this introduction. Following that, we have organised our detailed responses by the Pillars and proposals set out in the White Paper.

### **Affordable housing and infrastructure**

These proposals can only have negative impacts on Oxford. There is a lot of value in Oxford, which means that developments are viable whilst delivering 50% on-site affordable housing (80% of which is social rented), CIL and S106 obligations. We can't see how an Infrastructure Levy set nationally could achieve as much, even if it is varied regionally, as it would never be varied at a fine enough

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grain to reach the full potential of cities such as Oxford. Also local-level viability reports are needed to inform the setting of these policy requirements. The delivery mechanisms seem to have far more risk than the requirement for on-site affordable housing. We are also very concerned by how infrastructure funding will be prioritised.

## **Housing requirement**

We cannot support the proposals as currently set out. An important element of the current approach is that there are opportunities given to exceed requirements, if reasons for doing so justify it, and this has been justified recently in Oxford and South. It seems there will be no ability to put forward reasons for departing from the standard method, as can currently be justified if the criteria in the NPPF are met.

We do acknowledge that devolving the setting of housing need assessments and requirements entirely to local authorities did lead to a wide range of methodologies, a lot of uncertainty and a lot of involved and time-consuming technical discussions. We do therefore agree that a strategic approach is needed, but at the same time, local knowledge is vital. Applying constraints in looking at capacity is highly complex and requires local knowledge and prioritising; we do not think that this should or can be done centrally. It is particularly problematic that this would happen before local plans are developed and local decisions are made about which areas should be protected. There should be a mechanism for looking at the needs of a housing market area and distributing need within that, based on a spatial strategy and understanding of constraints and capacity that is developed locally.

There is also a risk with the proposed approach that the needs of cities is masked and their economic success is therefore at risk. Not enough emphasis is put on economic needs or potential growth ambitions in the current proposals. The focus on local authority areas is a backwards step. Looking at a whole market area gives a better idea of need. If the needs of an urban area (which will be underestimated) the response seems to be to reduce the number because of constraints. The collaborative approach in Oxfordshire enabled the needs of the city to be met in a strategic way that took account of Oxfordshire issues and dynamics, and we seek to refine this and look over an even longer timeframe in the Oxfordshire Plan. MHCLG support is important, but this approach could not be replicated at all by taking this entirely in-house at MHCLG, and this will not speed up the process.

## **Sustainable Development**

This policy approach is already in the NPPF but it is clear that this will be the key test for the new Local Plan in the White Paper, which therefore should have significant weight. However, the reductionist approach to sustainable development means there is scope for too much interpretation to be given to its meaning, which is dangerous when it will be the key test at examination. In the White Paper the rhetoric around sustainable development seems to forget social and economic factors.

The proposals to remove the need for sustainability appraisal and Habitats Regulations Appraisals is negative. Whilst these can be overly complex and have a tendency to become about process rather than outcomes, this could be rectified without the need to reject them altogether. SAs are a very good way of applying and demonstrating consideration of a range of sustainability factors, in the

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environment, social and economic categories. Looking at different options and assessing their impacts in the round does help ensure good decisions are made. One very narrow test of 'sustainability', which as far as we can see does not properly look at social and economic factors, does not do this job. Furthermore, we cannot see that anything is going to properly replace the loss of HRAs in terms of assessing potential impacts on internationally important habitats.

The climate emergency must be a key consideration in terms of sustainability, but the White paper does not properly respond to this. In part that is because there are no fully thought through proposals in Pillar 2 as it is intended that more detail will be provided later. What we are assuming is that carbon efficiency measures will be left entirely to either the NPPF or building control regulations. This is fine in principle if policy is properly strengthened, but experience shows this is unlikely. Furthermore, with this national regime, how will local opportunities be factored in? For example in Oxford there is the viability and skills available to achieve significant carbon savings and our newly adopted Local Plan policy reflects this. We think a policy that could be applied nationally could only be a step backwards.

Another key consideration in the climate emergency is the impact of transport. Spatial strategies for each local plan attempt to guide different types of development to the most appropriate locations within an area to reduce the need to travel. We cannot see how the zonal approach will replicate this or avoid a situation where developments that generate trips can be prevented in less sustainable locations that create a need to travel by car. This is further compounded by the fact that joined-up strategic planning seems to have no place, which limits the ability to deliver sustainable joined-up outcomes, which has been lacking and reliant on cooperation since the swift removal rather than review and refinement of the regional approach.

## **'More democracy'**

The White Paper explicitly states that the changes will lead to 'more democracy'. We consider that the opposite is true and that each proposal eats away at the democratic process embedded within the planning system, and at effective engagement of the public. A fundamental premise of the White Paper seems to be for a centralist approach to planning as opposed to seeking to decide at the 'local' level and having had due regard to local circumstances. This is evident from the stated intention to decide some matters at the national level, such as Development Management guidance provided at national level, the use of the National Design Guide to override local policies and the centrally set Infrastructure Levy. Details are lacking throughout the document but it seems that the infrastructure levy, affordable housing type and amount, prioritising of infrastructure, balancing of various land use needs and decisions about appropriate design will be decided nationally. This does raise serious issues about 'local' democracy and engagement in the planning process.

The proposals for amending the development management system will mean that there will rarely be an opportunity to comment on a development proposal, and also far fewer proposals will go to committee. This does not promote greater democracy. The introduction of the granting of outline planning permission for strategic sites in growth areas appears to significantly reduce the opportunities for the public and key stakeholders to meaningfully engage in the planning process. In many cases the proposed timescales for determination are so short that there is not an option to go to committee at all.

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In terms of local plan development there is too much emphasis on methods of engagement, which focuses narrowly on digital technology, without acknowledging the need to get out in the community and build relationships, and there is not enough thought given to the impact on the quality of engagement of the plan development process proposed. The proposals are that engagement in the local plan is in the early stages to inform drafting and then after submission. Whatever methods are used, this process does not allow useful inputs. There needs to be an opportunity to comment on what is being proposed, or even better various options, before submission, so that planning authorities can respond to comments. If during inspection the only criterion plans are assessed against is the very broad and open to interpretation 'sustainable development' then how will people have any reassurance that their comments will lead to changes to the plan, just to make it better?

## **Digital tools**

The White Paper seeks to 'revolutionise' planning with digital technology and using 'PropTech' measures to increase the level of engagement in planning. Whilst this is overall welcomed to make planning more interactive, user friendly, and easier to understand, it is important to ensure that there is not a 'one method that suits all' approach to engagement. There is no 'best way to engage people' and the focus on using digital technology should also emphasise the different methods of engagement it can produce. For example the 'written word' should not be the only approach. Many people understand through the 'verbal word' better. Our experience in Oxford shows that the best way to engage people is to get out to where people are try and build relationships within communities and to find angles that are most relevant to them. Those already engaged in the planning system will benefit from a greater use of digital technology. However, many people will need us to come to them in order for them to take an interest and understand the relevance of planning to them.

## **Beautiful buildings**

The White paper emphasises the importance of 'beautiful' buildings. Whilst clearly the intention is for there to be some design principles that new buildings will need to meet, is there a case to be made that 'beauty is in the eye of the beholder'. As well as beautiful, maybe we need buildings that are interesting, challenging, functional or exciting. Beauty is both too simplistic and too subjective. We hope that the details of the approach will allow for high standards of modern design rather than just making sure all proposals are 'safe' and reflect existing building design rather than allowing for higher-densities and innovative new approaches. It will be important for architects to be encouraged to be involved rather than the reliance by many large house builders to rely on standard 'design and build' approaches. Together with a greater role for urban designers in helping to shape places. Ultimately, it is the urban design features of an area, the structure of streets and layouts and the distribution of uses and green spaces and features (not just trees) that will have the biggest bearing on the liveability of places, and we are concerned that this has been forgotten in the proposals, which have a very simplistic emphasis on buildings.

## White Paper Pillar 1: Planning for Development - Responses

### **A NEW APPROACH TO PLAN-MAKING**

#### **Proposal 1 comments: 'The role of land use plans should be simplified.'**

We think that the proposals have gone too far in their aim to simplify local plans. In some ways however, the proposals mean that their role is not simplified, as they will effectively be replacing some of the planning application process. Covering what is needed to effectively give outline planning permission across large sites, whilst at the same time being given a statutory short timescale to complete this work, is unrealistic and will not lead to good outcomes. Furthermore, we are concerned that the good words around 'more democracy' cannot come to fruition with the proposals for the simplified role for local plans.

Oxford is a highly constrained city and much of the city would fall under the protected areas; Oxford has 18 conservation areas, land in both Flood zones 2 and 3, important green spaces and environmental designations including a Special Area of Conservation, and the green belt surrounding its boundary. To allocate 'growth areas' in constrained urban areas like Oxford will be challenging, dependent on what the proposed term 'substantial development' definition will be. It is not clear to us where the term substantial development will be defined in policy. As it seems that all policies are to be nationally defined we assume this will be in the National Planning Policy Framework (NPPF). This is concerning because this will be instrumental in determining what happens where, so the lack of local engagement on this certainly will not in any way lead to 'more democracy'.

#### *Lack of spatial strategy and management over uses across the area*

What is missing from the proposals is looking at suitable locations for different types of development across an area as part of a spatial strategy. This is possibly the biggest draw back and loss from this proposed over-simplification of the local plans. There is a brief mention that it might be appropriate for high streets and town centres to be identified as district areas. That is one brief sentence with no apparent thought given as to how this would happen within the context of the proposed zoning system. Would district centres be growth zones, with a specified mix of uses? Would directing town centre uses to these areas and not allowing for them in other growth zones be the only way of managing where these uses are? So is the intention that instead of policies allowing certain uses in certain areas based on a spatial strategy, each area would be individually zoned with an individual mix of uses? Sometimes policies direct development such as retail to particular areas first but allow it elsewhere based on impacts and a sequential test. This has become more challenging already with the change to the Use Class Order. These nuances would be lost to either a less flexible system or one that has no teeth- it is hard from the current lack of detail to tell which, but neither seem desirable.

The idea of sub-areas within growth zones to achieve very specific types of development does not seem like it would work. How would it be ensured that all the uses within a zone actually come forward? If an area suitable for housing also needs to deliver a school, shop, open space and some employment generating uses, listing those uses as acceptable within the zone does not ensure that they all happen. At the moment, in Oxford a general policy deals with the need for allocations for self-build homes. How would this be done individually for each growth zone? Why would a particular area that is a sub-area for self-build housing have to be chosen in advance? It is the only way within this system to try and ensure it happens. Custom-build and community-led developments are mentioned but how would a sub-area for community-led housing be chosen in advance? What if no

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community-led group is ready at the time of writing the plan? Would they lose their opportunity? And how could an area of land be made a sub-area for a community-led housing developer- this surely would be objected to by the landowner, as it is effectively allocating their land to be developed by a specific group. Other needs that are arguably more pressing also can't be dealt with properly. The proposals for affordable housing are of huge concern, but in addition to that, so is the fact we would lose the ability to plan for different sized units, student accommodation and elderly persons accommodation. Sub areas for different sizes of housing, for student accommodation and for elderly persons housing cannot be defined.

The idea of the Local Plan being an interactive web-based map where data and policies are easily searchable is supported. However this may require more resourcing and support to local authorities to enable this. Also, whilst this is a good aim, the system should not be designed around trying to achieve this end. If more is needed than a searchable map then it should be done, not rejected for being too complicated or not fitting into this desire.

## *Growth areas*

We assume that a 'growth zone' would effectively be a large site and that there would be a series of 'growth zones' in a planning authority's area. Effectively, these are site allocations that also constitute outline approval. Beyond the zoning, we are not sure what the scope of the local plan is. Simple controls over heights and density are suggested in proposal 2. This does not deal with the complexities of designing within an existing urban area or of balancing uses.

Carefully balancing land uses within the city to ensure a variety of needs can be met and sustained is absolutely vital. This was acknowledged in the recent Inspectors' report for our Local Plan.

*"Oxford is a busy, successful city and the plan seeks to strike a balance between the needs of its many important land uses such as housing, employment, educational, recreational, community and other uses, whilst at the same time protecting the character of the city. The spatial strategy, which is set out in the first section of the plan, aims to intensify new development on previously developed land. This is reinforced by Policy RE2: Efficient Use of Land, which addresses matters such as site capacity, density and scale."*

We had to rigorously evaluate the balance between growth and environmental considerations and to do this we needed an extensive and detailed understanding of the site availability in the city to reach a capacity based housing requirement and balance the competing demands on this finite resource. This involved working with a range of partners to get that balance right. We are significantly concerned that the proposed approach will result in a reduction of housing supply and an imbalance between uses within the city, which will not be easily rectified due to the lack of land available.

A sweeping statement is made that sites around universities could be growth zones, giving opportunities to create growth-focused businesses, but it is not at all clear how much ability there will be to ensure desirable uses come forward within growth zones, or what kinds of development will effectively have outline approval. In Oxford, sites around the universities comprises much of the city. Most of the areas around the universities are very sensitive conservation areas, in the settings of listed buildings. The conflict with the proposal for protected areas is described below. We are not sure why it seems these sites should be for 'growth-focused businesses'. Maybe they should be for innovation and world-class, groundbreaking research, which where possible encourages start-ups and wider economic success. The universities identify sites they need and have always been able to

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discuss these with the City Council, and where suitable the sites are generally allocated for university use. This is a solid approach that has enabled the universities to grow and develop. This situation will not be improved by the idea of marking up 'growth zones' vaguely around universities. If these have permission in principle, we don't know how the local plan could ensure appropriate uses come forward.

There is such competition between land uses and we will have even greater pressure to deliver housing, but this seems a less nuanced approach with far less ability to balance uses. Oxford's current and newly adopted local plan has detailed policies about suitable locations for different uses that are very finely balanced against each other and which ensure development is in the most sustainable and suitable locations. We do feel that local policy will be necessary in growth zones.

## *Protected areas*

We are not sure how the protected areas will operate, or the meaning of 'more stringent development controls to ensure sustainability'. This does not have a clear meaning. The stated intention of the White Paper is to ensure the 'easily understood' concept of sustainability. It is not only in protected areas that development management policies are needed to ensure sustainability. Protection of sensitive areas might be little to do with, or only an element of, sustainability. This use of the term demonstrates how the term is being over-used and miss-used in the White Paper to mean any type of development or protection seen as desirable by MHCLG at the time. The level of protection and how this will be managed is unclear. As development management policies will be in the NPPF, it is assumed that the local plan will simply zone areas as protected and then if development comes forward in those areas it will be assessed against national policies. This seems to be overly simplistic. The reasons for protection will be wide-ranging and the considerations in these areas vary from place to place.

We set out our concerns regarding all Green Belt seemingly being automatically a protected area in the response to Proposal 4. In addition to that we are not sure how the idea that all conservation areas are protected areas will work in practice. Much of Oxford, including most of the areas around the universities, including those areas where large sites are currently allocated for university development, are conservation areas. No thought has been given to the consequences of these areas being protected areas, which presumably will have development controlled by national policies that have absolutely no regard to the local situation and the expertise of managing development in this context that has been built up in cities such as Oxford over many decades?

We urge caution over the simplistic idea that all areas of significant flood risk should be sensitive areas. We are not sure that this has been fully thought through. There are many historic cities like Oxford that have developed at strategic sites around river crossings and which therefore have large areas within the built-up area that are already at risk of flooding. Oxford has bespoke policies, recently examined and adopted, to allow managed development in high risk flood zones, even the highest risk flood zone 3b. This is made possible because of close working with the Environment Agency to design a stringent enough bespoke policy. Flooding in Oxford is a fact of life that must be managed carefully, using ever better flood risk management techniques and analysis to limit disruption and ensure safety. Flood risk can be managed. It would be detrimental to simplistically prevent significant development across swathes of a dynamic city such as Oxford.

In relation to growth areas it says areas of flood risk are excluded unless they can be fully mitigated. In relation to sensitive areas it says that areas of *significant* flood risk should be included as protected areas. We are not sure whether this is careless wording and this applies to the same

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areas. The obvious assumption is that this is intended to apply to those areas that are in flood zone 3, and that the general intention is that these should be protected areas. We are very unclear about how, by whom or against which criteria it will be determined that risk can be mitigated. Presumably this will only be possible when a significant and ready landowner is willing and able to pay for an extensive Flood Risk Assessment (FRA) in order that their site can justifiably be included as a growth area. This would require a lot to be known about the proposed development of that site. Currently a high level Strategic Flood Risk Assessment (SFRA) level 2 can be carried out that looks to see whether mitigation is likely to be possible but this is assessed again alongside a detailed application. Without the possibility of this step in growth areas, what would be expected? And does this bias sites where the landowner already has a nearly developed scheme, rather than just some positive thoughts towards possible development?

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

The proposal would not result in an effective approach to managing development to ensure the desired outcomes. This is particularly important in urban areas like Oxford that need a careful approach to managing development in order to allow the city to grow within its constraints. We are very unclear about how uses would be managed, as outlined in Proposal 2. We do not think that this system allows a framework within which flexibility is possible. To allow flexibility means to allow a great deal that would not necessarily be desirable.

Narrowing down aspects of appearance of development to be captured locally to height limits and scale/density is far too simplistic. Presumably national policies would deal with other key urban design components. However, compliance with these cannot be determined by a check-list. Judgement about good urban design and negotiations to improve it are a key features of determining applications, require expertise and would be lost under these proposals. We are proud of the local-level policies have been developed in Oxford's Local Plan and consider that we have the necessary expertise to assess the suitability of urban design in development management and heritage teams. Reliance on a simple question of 'does this comply with the height and density for this zone' and some basic national policies will not be enough to ensure good urban design (which is different to designing 'beautiful' buildings). The NPPF strengthened the role of design review and Oxford has a very successful panel of independent experts to ensure that design is appropriate in the specific context of Oxford. The panel members all have extensive experience and have developed a specific knowledge of Oxford during their time on the panel. This is important so we can continue to allow change even in some of the most sensitive parts of the city so that it can continue to evolve for future generations.

Another key feature of the current system that would be lost is the ability of a development management planning officer to balance the need for and benefits of development against impacts that can be mitigated, such as being in a flood zone or conservation area. To describe local plans as 'long lists of general 'policies' seems to indicate a profound lack of understanding or even knowledge of local plans and their purpose. We are not sure why 'policies' is in inverted commas as policies is undoubtedly what local plans currently contain. However, they are generally based on a spatial strategy, usually visualised and are accompanied by a clear policies map. Sometimes national policy is repeated, but this can easily be missed. If policies that repeat national policy are removed, that does not leave nothing- there are plenty of local polices specific to individual areas and their needs. Oxford has recently adopted forward-thinking policies specific to its unique context that could not be replicated nationally, for example for car-free developments, detailed and place-specific policies about students and a unique response to flood risk. Also, national policy usually needs more detail

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and to be turned into a 'policy'. The concept of an NPPF that contains detailed policies to determine applications against, that will cover nearly all eventualities and apply nationally, is mind-boggling. It is certainly not a way to achieve 'more democracy' as there will be far less engagement from the public in this document as in local plans and planning applications.

Opportunities for more stringent requirements in areas with good viability will be missed by national policies. For example, the very high levels of viability in Oxford mean that whole-plan viability testing shows very stringent carbon-efficiency requirements can be afforded throughout the city. This is not the case everywhere at all. Would requirements (assuming there are any related to carbon efficiency, although of course this may be left to insufficient building control requirements) be set to what can be afforded nationally? The whole concept of varying viability, by area and within areas, at plan stage and applications stage, is lost completely in this proposed system. The massive negative implications for affordable housing are dealt with elsewhere in this response.

The alternative approach seems a far better response. This would allow local policies that respond to a local spatial strategy and that are based on specific circumstances. Not repeating national policies is absolutely welcomed, although there should be the option to try to justify a different approach if the evidence supports it.

Alternative options: Rather than removing the ability for local authorities to include general development management policies in Local Plans, we could limit the scope of such policies to specific matters and standardise the way they are written, where exceptional circumstances necessitate a locally-defined approach. Another alternative would be to allow local authorities a similar level of flexibility to set development management policies as under the current Local Plans system, with the exception that policies which duplicate the National Planning Policy Framework would not be allowed.

## **Proposal 3 comments: 'Local Plans should be subject to a single statutory "sustainable development" test, replacing the existing tests of soundness.'**

We have real concerns about the removal of legal tests. This will remove any consideration of the adequacy of consultation and of impacts on protected sites, putting at risk the basic principle of democratic engagement within the planning process and some of the most important and vulnerable parts of the natural environment. Although consideration of local plans should not focus on process, currently it is checked that consultation has been carried out thoroughly and that legal obligations relating to protected sites have been carried out. Whilst we recognise that EU protected sites will not have the same level of legal protection in the future, that does not take away from the fact that these sites are massively important and deserve the highest level of protection. Processes in place about consulting with Natural England and carrying out HRAs are designed to ensure their continued protection and high quality. In the desire to reduce 'process' the good reasons these processes are in place has been forgotten and the impacts could be damaging.

We do not agree that there should be a single statutory 'sustainable development' test replacing the existing tests of soundness. The current tests of soundness are not overly long and complex. We do recognise that they would need to change to reflect the changed nature of local plans. Currently, many tests are geared towards the effectiveness of policies, but the proposals suggest that local plans will not be about policies as such any more. However, a single test of sustainability, where

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sustainability is a subjective concept, narrows down considerations too far, is too opaque and difficult to aim for and could be interpreted at examination in unexpected ways. Our concern is that this will become a moving target, that cannot be achieved because it will not be known exactly what it means until a particular interpretation is put on it at examination by the Planning Inspectorate and ultimately the Secretary of State.

We do not necessarily object to there being a simplification of sustainability appraisals. There is a tendency for them to become unwieldy and about process rather than outcomes. However, we do not think that they need to be that way or that that means they should be rejected. The potential they offer is to set out clearly the thought processes that go into deciding on and weighing up options. SAs look at sustainable development in the round, i.e. social, economic and environmental factors. This had always been part of the planning process, but before SAs were a requirement was not so clearly set out. Setting this out in a public document actually helps transparency- as long as the document is not so long or technical that it is never used except to try and pick holes in the process.

The wording in the White Paper relating to this proposal brings some concern that the complexities of the meaning of sustainable development are forgotten and that the focus the sustainability test will be environmental considerations. It is very important that whatever tests of soundness are brought in are wide ranging and not too narrow and in particular that social and economic impacts are considered also. We also consider that there should be processes in place to ensure environmental protection and correct consultation and that these should be tested as part of the examination.

**Proposal 4 Comments: 'A standard method for establishing housing requirement figures which ensures enough land is released in the areas where affordability is worst, to stop land supply being a barrier to enough homes being built.'**

*Failure to address underestimates due to suppressed need and the need for exceptions*

A standard method for establishing housing requirements has already been introduced. There are a number of advantages to this. The convoluted and highly technical discussions that occurred at every local plan examination excluded involvement and did not necessarily lead to better outcomes.

However, there are also a number of potential pitfalls with introducing a standard method; if the methodology and guidance is not thoughtfully and carefully introduced, it may have the opposite effect to that intended, or other damaging impacts.

The standard method in the Changes to the Current Planning System paper underestimates housing need for some areas due to an over-reliance on household projections and insufficient consideration of economic factors and affordable housing need. There is less detail in the White Paper including about use of demographic need and we don't know how many additional factors may be included in the standard method that follows the White Paper. The methodology as set out in the White Paper is overly simplistic. Consideration of the existing quantum of housing stock does not in any way work as a proxy for areas that need new homes to play a regeneration role or that do not have the right stock to meet current needs because of lack of the right tenure, sizes, etc. Also, it does not help to overcome the issue of suppressed demand within demographic forecasts- the overall quantum of stock will not have been enough to meet in constrained areas, often over a long period of time.

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The standard method figures in the changes to the planning system paper show that the methodology used is arbitrarily reducing Oxford's housing need and masking significant problems. Oxford and South Oxfordshire's local plan hearings have taken place within the last 12 months. The Inspector agreed that the current standard method did not accurately reflect our housing need as it did not take account of the economic and affordable housing need factors sufficiently. The Inspector for South Oxfordshire in his preliminary findings has also found that their housing requirement should be composed of their own need, which is higher than that calculated by the standard method, and some of Oxford's unmet need. In both cases the severe need for affordable housing justifies a higher housing target. Even though the standard method now already allows some up lift relating to affordability, this was not considered to be enough to meet affordable housing needs. Very importantly, the key consideration was not affordability, but the need for affordable housing. This is not at all the same thing and requires different solutions and different calculations. However, the removal of affordable housing as a requirement on-site shows that this may not be a concern that the planning system can attempt to address in the future.

Oxford is not the only city where the new standard method is reducing need. Cities are among the most sustainable locations for growth in the country. Having a method that masks the huge demand and needs generated by cities could result in unsustainable growth patterns. For example what appears to be happening is that authorities who have delivered homes in the past, perhaps on behalf of a city on their boundaries with unmet need, are getting higher requirements, while in cities it is reducing. The issue with this is that the link to the city's driving need means there is no ability to consider those needs in the context of from where they were derived to then inform a spatial approach.

This leads into another key issue which is that the move away from looking more strategically at housing need across market areas allows for market dynamics and economic drivers to be considered which can then feed into spatial responses. The standard method narrowly focuses on administrative boundaries that means these wider considerations are no longer considered.

Uplift above the standard method is also possible currently based on an area's growth ambitions. Oxfordshire is an economically successful area where lack of housing is a barrier to further economic growth. If an area has ambitions for economic growth and needs more new houses than suggested by current affordability data, what will be the opportunities for arguing for a higher housing requirement in order to try to achieve this?

Currently, alternative approaches to calculating a housing requirement might sometimes be justified to achieve aspirations such as delivery of affordable housing and Growth Deals. The NPPF and PPG do allow for alternative approaches in certain circumstances, with it being inferred that this should only be to go above the standard method. This allowance should be continued, with some clear wording about the reasons a diversion may be justified, in order to allow decisions made by Inspectors to be strong and not open to challenge in the High Court.

*Housing requirement calculation will not address affordable housing or economic need*

The phrasing of Proposal 4 suggests that a standard method will prevent land supply being a barrier to enough homes being built, and implies that lack of supply has led to reduced affordability. Some adjustment based on affordability is fair, but this should not be the only factor and it should be balanced against other factors such as economic needs. Supply of affordable housing is more important than supply overall where there is stark unaffordability. Calculating a housing requirement based on an attempt to increase supply to overcome affordability issues will not have

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the intended effect and could have significant negative impacts. Further details are needed, and great caution must be taken in order to prevent unintended consequences. There are potential benefits to a standard method, but it must not be drawn up on the basis of a very simplistic understanding of the impacts of housing supply on affordability, or of the impacts on the planning system on supply. We are also concerned about how constraints will be taken into account and how different needs will be balanced against each other, especially in compact urban areas such as Oxford.

It is said in the White Paper that the intention is that housing requirements will be highest in the largest urban settlements that can absorb the level of housing proposed and also will be greater in less affordable housing areas, suggesting that the least affordable places are unaffordable because of a lack of supply, but that they do have a limitless potential supply. Firstly, this is not reflected in the latest figures that have used the methodology set out in the changes to the planning system paper, which underestimate the housing requirement for cities such as Oxford because need is being masked. Housing requirement should be high in areas such as Oxford. There needs to be a constraints process applied but also a spatial consideration about where are the most appropriate locations to meet any remaining need.

Not enough thought is given to the process of distribution of the numbers. London is the largest settlement that is high unaffordable. However, this is due to many factors. Having a massive housing requirement will not overcome these factors. And it does not have limitless supply opportunities. What would be the implications for other land uses that are vital, particularly those that support the economy? Should economically successful places like London (which is why they are difficult to afford) concentrate solely on delivering housing in order to meet the huge housing requirements they will have? Is this a sensible approach for a country trying to re-build its economy? Surely the economy won't be rebuilt solely by the mass building of homes in already overcrowded areas. How about less economically successful areas where there may be smaller towns and no affordability issues? These may have a low housing requirement. How will their economies be rebuilt? What if their demographic needs are high or they want to attract inward migration to boost their economies?

A housing requirement that is so strongly removed from need is extremely worrying. It is based on highly simplistic assumptions about planning and the housing market. It does not take account of the need for affordable housing (which is different to affordability factors). Also it is not clear how it will take account of and calculate specialist housing needs, which as well as the need for affordable housing include the need for different sizes of unit, student accommodation and elderly persons accommodation. There is also no proposal to take account of economic needs or growth aspirations.

*Understanding capacity/constraints in urban areas and the need for local knowledge, balancing competing demand and considering alternative distributions*

Currently, a need or requirement is established and Duty to Cooperate discussions help distribute any unmet need. Establishing unmet need is intensive and unless very thorough is open to challenge. Planning authorities are used to operating with a 'no stone left unturned' attitude to finding sites with housing potential. To ensure a robust process requires local knowledge and expertise and an understanding of capacity, not just in terms of constraints but also in terms of establishing relationships with landowners, and working with them to explore potential. Applying constraints is not simple and also requires local knowledge, data and surveys, for example to understand biodiversity interest (protections need to be reconsidered often, which may require surveys; not only SSSIs should count as a constraint). Understanding Green Infrastructure networks worthy of

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protection cannot be done at a central level, without vastly simplifying sources of data and understanding, and therefore not properly applying constraints and understanding where capacity might be less than need. Indeed, pillar 2, although not having firm details, suggests that local plans should have a role of identifying locally important protections. How can constraints properly be applied to reduce the housing requirement before they have been set through the local plan process?

Furthermore, competing land uses need to be considered. Overall capacity may be fixed within set policy constraints, but it will not be fixed for particular uses within urban areas. There would always be potential for more housing, for example, at the expense of economic sites. How will this balance be decided centrally? How will it be ensured that economic needs will be met as well as the housing requirement, and that the housing requirement will be reduced enough in constrained areas such that there is not a requirement to look to vital economic sites (given that the duty to cooperate would have dealt with this unmet need but that it is removed)? When the housing requirement is determined first, centrally, when will any potential competition with economic needs that should be accounted for in the zoning be taken into account, if they have implications for housing capacity?

It is not clear how authorities will have the ability to agree an alternative distribution. Without the duty to cooperate it seems this will be dependent on their being joint planning arrangements and that this may be dependent on authorities agreeing to be combined authorities with a Mayor. If they do not do this it is assumed there will not be any scope to discuss alternatives. This means local authorities will be incredibly dependent on MHCLG understanding local context and constraints when setting housing requirements. This could have very negative consequences for a city such as Oxford, with a vital economic role and constraints and demands on land that are difficult to understand from afar, and which are highly complex. The Duty to Cooperate has ultimately required consideration to be given that was absent before. In Oxfordshire we have reached agreement without formal structures and the Duty to Cooperate has played an important role in that. An alternative might be a two-stage examination process where the housing requirement and distribution is agreed first and the details of design codes and zones follows.

## *Difficulty of constraint and density assumptions being applied nationally*

The stated intention in the White Paper to factor in land constraints, presumably at central government level, may well lead to challenge as those with more local knowledge find errors in the considerations of constraints. It is likely the factors considered will be kept opaque. This will undermine trust in the system and any local good will, leading to greater likelihood of challenge.

We are concerned that there is not the capacity centrally to carry out the considerable amount of detailed work that will be required to take into account the constraints that exist with a local authority area, unless this is done in a massively over-simplified way. How will this be undertaken in practice and by whom, and will there be an opportunity for the local authority to provide any comments and a sense check of the initial findings? If a housing target is shown to be inaccurate or flawed, what recourse will the Local Planning Authority have to remedy the position, other than the High Court?

A further concern is that higher density assumptions will be made in some areas- presumably urban areas where there is a high demand. However, how these high densities will be ensured and whether they will always be appropriate must be considered carefully. If national development management policies are flexible and responsive enough to deal with varying density requirements, this will help to ensure they will be enforced. However, it is hard to see how a national policy could

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cover the variety of suitable densities that will exist. In sensitive locations such as Oxford a great deal of irreparable harm could be done to the historic environment of the city if badly thought through density requirements are imposed. This would undermine the very things that make the city and its economy so attractive and successful. Locally set density policies are vital to be able to respond in a fine grained way with properly nuanced densities. However, even if this approach is possible, the assumptions made nationally about housing requirements could undermine any local policy.

The text of the White Paper says that the existing policy for protecting the Green Belt would remain. Therefore, presumably Green Belt will be factored in as one of the constraints. As a Green Belt authority, this simplistic view of Green Belt is of concern. There is not a simple existing policy for protecting the Green Belt. Green belt is not absolutely protected by policy, there is currently a nuanced approach. The current approach allows reviews of Green belt and for Green Belt boundaries to be altered if there are demonstrable exceptional circumstances. This has enabled Green Belt to be removed in South Oxfordshire, Oxford, the Vale of White Horse and Cherwell District Council areas in order to deliver much needed housing, which in turn supports the economy. The Green Belt locations have been accepted as offering the most sustainable locations for these housing need. Green Belt is a policy constraint and is different to environmental and landscape constraints, and should be treated as such.

Reading of the alternative option suggests that the main option proposes something it does not explicitly set out. It says that the calculation of how much land to include in each category could be left to local decision. We don't know what these categories are or how the standard method housing requirement calculation is to be turned into a land quantity. This will be far too dependent on local circumstances to ever be anything other than locally determined. It is not clear what other land requirements it is intended we are given a quantity for. It does not seem realistic that this could ever be done in any meaningful way at a national level. Therefore, the alternative option seems far more realistic.

## *Housing Delivery Test*

It is not clear that the new system changes anything in terms of the ability for the local plan to actually lead to housing being delivered. Paragraph 9 of the Changes to the current planning system paper says that: *'By directing that sufficient land should be released as above, the amount of need identified by the standard method has a direct influence on how many homes will be built in the future. It does not ensure that the homes are actually built - that is reliant on wider market conditions and targeted government interventions to support the market. However, identifying sufficient land so that the market is not prevented from delivering the homes that are needed is vitally important to prevent the under-delivery of the past from continuing to happen.'* This is a clear acknowledgement that the actual delivery of homes is not in the control of the planning system; it can only control supply. How is it then reasonable to assess planning authorities against delivery, with sanctions proposed if targets are not met?

## **A STREAMLINED DEVELOPMENT MANAGEMENT PROCESS WITH AUTOMATIC PLANNING PERMISSION FOR SCHEMES IN LINE WITH PLANS**

**Proposal 5 comments: 'Areas identified as Growth areas (suitable for substantial development) would automatically be granted outline planning permission for the principle of development, while automatic approvals would also be available for pre-established development types in other areas suitable for building.'**

## *Role of outline planning applications*

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We agree that there could be fewer steps between the allocation of a site in the local plan and the granting of outline consent, but a simplified process could be better achieved by removing the opportunity of outline consents. Outline applications are normally, although not exclusively, pursued by landowners or land promoters, to increase the value of the land before selling it to a developer. They remove significant risk for the purchaser, as they establish the principle of development, while still granting significant flexibility for the developer to build a detailed design based on their product. However, if the local plan establishes the principle of development, there is no planning reason or gain for such applications. Once the council has identified a site in its local plan it is an affirmation that the principle of development for the use in the plan is acceptable. The council would prefer for the applicant to submit detailed a planning application on allocated sites. Doing so decreases the start-on-site time and gives the council greater certainty on what will be built, and what infrastructure contributions will be paid and when. Outline applications can cause confusion for professionals and members of the public alike as they create a further dataset to monitor and update, alongside a further set of planning conditions to monitor.

Under the White Paper proposals, the government is suggesting that local plans will provide more certainty and flexibility for allocated sites than they currently do. This further removes the need for outline applications on such sites. The only circumstance in which we can envisage that they would still serve a planning purpose, would be where a landowner / developer wishes to identify an alternative use beyond that stipulated in the plan. Consequently, we need more information on what controls new local plans will be able to place on the type of development that takes place in growth and renewal zones as set out in our response to Proposal 1 above.

Presumably, a mechanism will need to exist for the council to consider alternative uses to those identified in the local plan, as the White Paper suggests it can still identify appropriate uses within growth and renewal areas. Any application to change the use must be a robust assessment of the principle of the development and should not be used as a loophole to secure an alternative use to the plan.

To summarise, the council supports the proposals to reduce the role and prominence of outline planning applications. The information relating to allocated sites in Local Plans could be increased. However, that does not require the zoning system, and there does not need to be enough information to support a permission in principle. Instead, a full application could be required for any allocated site, rather than an outline permission being possible.

## *Securing detailed planning permission*

It is important however that the detailed planning application stage still considers matters that underpin good place making, a successful economy, and the protection of the environment. We would also like to question the role of Development Consent Orders for exceptionally large sites. We understand the challenges that large sites can pose, but their design must still maintain an element of local input to match the Secretary of State's aspiration to increase democratic participation in the process, so local planning authorities must have an input into this process.

## *Renewal areas*

The white paper states there will be a general presumption in favour of development in these areas. We do not think that there should be a presumption in favour of development; this may be harmful. A decision maker needs to have criteria at their disposal to be able to weigh up social, economic and environmental impacts and thus ensure sustainable development. It is not the case that any development in renewal areas will be positive.

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## **Proposal 6 comments: ‘Decision-making should be faster and more certain, with firm deadlines, and make greater use of digital technology.’**

### *Determination deadlines*

We support faster decision making and endorse the aims of the White Paper. However, it is difficult to offer support for the specific proposals identified within it. The council is concerned that authorities will not be able to have enough planners to determine applications within fixed, unextendable deadlines. This will be influenced by the nature of the new system and what each planner will need to consider when determining an application. However, it will also be affected by the quality of material that is submitted by the applicant (poorer submissions require new documents to be submitted and consulted on), or by any unexpected constraints found on site during the determination process. The timescales also undermine the planning committee process and therefore the aim of ‘more democracy’ as they are too short for committee processes and would prevent decisions being able to be made in public.

There is a risk therefore that unextendable deadlines will push councils to refuse permission rather than spending an extra few weeks negotiating mitigation measures. This could either stop the development altogether, or result in months’ or years’ delay while the application is determined by the Planning Inspectorate.

### *Modernisation / digitalisation*

We welcome the Government’s support for the digitalisation of the system and agree that this will be a significant undertaking that requires central government support and resources. We would like to volunteer our support of this and share our work on creating a sites database for our local plan, that is seeking to automate our monitoring process.

A nation-wide spatial database to assist applicants in determining whether a development is in line with local policies would require the mapping of the local policies of hundreds of councils, potentially including design codes from local and neighbourhood plans as well. Historic or legacy data (for example extant planning applications or local plans) will also need to be migrated into this database. Local policies and democracies should not be swept away because they are obstacles to aims such as this. The resultant benefits are not worth the loss.

### *Standardisation of data*

To achieve the above at a national level there will be some standardisation of data. However, we are concerned about proposals to standardise data for developer contributions and viability. This will exacerbate trends in areas with acute affordable housing or infrastructure needs (such as Oxford) as developer contributions may be based on averages that do not reflect local circumstances.

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

Creating a standard template for all local authorities to use seems un-contentious, but that will depend on what it does and how. It would make local plans more familiar and potentially easier to use for everyone. Currently each authority’s local plan looks very different and therefore having one ‘master’ template for all to follow could help ensure transparency across England. This may also

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enable comparisons of local plans to be easier, for example it will be easier for people to find sections of local plans and compare what the priorities are for each authority.

The desire to have a template should not result in any over-simplification of the local plan approach, removing the opportunity to have complex or locally suitable policies. Sometimes these are necessary to achieve the best outcomes overall. That should not be forgotten in the desire to have a simple template.

There must be help from central government for local authorities on this regarding expertise and IT equipment. Currently there is a wide variation in GIS and other software used. Standardising this could be time consuming and costly. In addition, more training for those working in local authorities on GIS mapping software, and access to the equipment/software may be necessary, depending on the details of the requirement.

Although making local plans more accessible and easier to use by making them available to view on smart phones may have benefits, it must be emphasised that local plans still need to be compatible/have the option of being produced in hard copy format. This is to ensure that those who do not have access to technology, or do not have the skills to use technology, still have the opportunity to engage in planning with hard copies of local plans. At present hard copies of local plans can be provided by a local authority in the council office for example for viewing, and opportunities like this still need to be factored in to the local plan process to ensure fairness and equality.

## **A STREAMLINED, MORE ENGAGING PLAN-MAKING PROCESS**

**Proposal 8 comments: 'Local authorities and the Planning Inspectorate will be required through legislation to meet a statutory timetable for key stages of the process, and we will consider what sanctions there would be for those who fail to do so.'**

The proposed system means effectively shifting most of the development management process into the plan making process, and in less time. It feels utterly unworkable, ill thought through and designed to remove public scrutiny from what will be the most critical stage of the planning process.

The statutory timescale is very short and is unbalanced. There is almost the same length of time for planning authorities to produce a plan as PINs will have to examine it. Urban areas remain complex in nature even with a simplified system and time is needed to ensure the right decisions. Importantly, enough time is also needed to bring stakeholders, including other public bodies, residents and employers and landowners, along. Really, the detail of what will be required of plans should be decided on before the timescale is set, or no one can make a proper judgement about whether it is achievable, with good outcomes.

It is not clear what 'higher-risk' authorities noted under stage 2 means. It is also unclear how Planning Inspectorate advisory visits will help. How will these be resourced and paid for? How will there be enough resources within the Planning Inspectorate to make sure that there are not delays within this very short yet crucial 12 month stage? How will the Planning Inspectorate remain impartial through the examination process? If they have offered advice during Stage 2, that has been followed, they will not be able to make decisions contrary to this later. If the 'visits' are merely to ensure the plan is on track, why does this need to be by 'visits' and why is the Planning Inspectorate in the best position to do this? It is considered that there should be an ability through these visits to identify the factors that are causing delay almost like an amber warning so that bespoke extensions can be agreed with the Government.

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We think these proposals will have serious negative implications for public engagement in the planning system. Using phrases to say there is an expectation there will be 'best in class' engagement practices is meaningless. The best techniques and materials can be used, but the imposed process may not allow for them to be meaningful. Front-loading consultation and engagement has been important to us in Oxford. We have used early consultation to inform the scope of plans even after this ceased to be a statutory stage. This is valuable. However, it is wrong to think that there is a huge keenness from a large number of local residents to get involved in shaping planning documents. Some residents and local groups will of course, and many people will give some thoughts, if asked in the right way. However, what people really want is to see something more tangible that they can then react to. This might be a draft plan, but very often it is a development proposal that is near to them and that has more meaning to them. With the new proposals, the opportunity to do this at application stage is removed. The first stage of consultation is all very well, but the leap to the second and final stage allows comments on a Plan that is already drawn up, after it is submitted, and requires people to explain both how the plan should be changed and why. People should not have to go to this much effort in order to engage with the planning process.

Having a stage of consultation on a draft, or even better on options, which can then be changed by the planning authority before submitted is a far better way to engage. Our experience shows that people are very much turned off from commenting on what they consider a 'fait accompli'. This will not help to build relationships between residents and local planning authorities, but instead pits them against each other. The opportunity for the planning authority to hear what people say and respond to it by making changes is absolutely vital. This also leaves the Planning Inspectorate in the position of dealing with a far larger range of comments, that the planning authority could have responded to and avoided the need for the planning inspectorate to do this. The consultation methods can be 'best in class' but this will lead to a very poor form of engagement, because of the process set out, and it cannot be described any other way.

A mandated 12 months for the entire process causes us concern about the validity and robustness of supporting evidence could be produced. Studies are needed to inform the plan. They will each take several months as a minimum. Sometimes data collection, such as biodiversity surveys, can only be done at certain times of year or will take a certain amount of time. This cannot be done in time to inform a plan that must be drafted within 12 months- not from the end of the data collection but including that time?

We are concerned about the statutory duty to reach adoption within 30 months. The time taken to adopt the plan has not been factored in. Council processes mean this will usually take another couple of months once the Inspectors report is received. Currently there are procedures for consulting on main modifications. Presumably this would be removed. However, that still leaves at least two months that has not been factored in to any of these stages. The Planning Inspectorate are not resourced sufficiently currently. If they are being asked to deal with the huge number of plans that would be expected 30 months after the legislation, all at the same time, in a new system yet to be tested, whilst also dealing with all of the consultation responses the planning authority has not had to deal with, they will get delayed. The planning authority won't then be able to adopt on time, through no fault of its own. It is important that any timetable set for local planning authorities is for elements of plan making within their control; we cannot support the idea that we might have sanctions imposed for a delay to the 30 month (we suggest its longer) timeframe imposed if the delay is caused by the Planning Inspectorate or another cause outside of our control.

It is stated that a review will be required sooner than 5 years after the adoption of the previous plan if there are issues with, for example, land supply. It is presumed that, as now, completion of a review

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is required within 5 years, so would need to be started 2.5 years after adoption of a plan. It seems that the test as to whether there are housing supply issues will be the housing delivery test, not a failure to demonstrate a 5 year housing land supply. Completion of new houses will not be immediate after adoption, so how will it be judged that there are delivery issues only a year into the plan? This is when an earlier plan would need to be triggered, as after 2 years would just be the standard timetable. In the experience of Oxford, certainly, delivery is dependent on landowners, who may be very slow to act, and allocations are not always taken up, through reasons totally unrelated to planning but due to landowners pursuing other sites, having changed circumstances or wishing to wait for a whole host of reasons.

These proposals are all put forward on the false premise that delays to local plans mean that not enough land comes forward for development, which affects affordability. This is an incredible oversimplification. The proposals put forward will not have the intended effect. In Oxford many sites move forward from one plan to the next without being developed. There are few large sites, so land supply often comes from unexpected places. The Local Plan currently has policies that can respond to this, so a new local plan is not needed to enable newly arising sites to come forward. It seems that a new local plan would be needed in the new system, therefore causing delay.

The alternative proposal put forward to remove the 'right to be heard' would have a very limited impact. The right to be heard does not apply across the board, but only to those who made representations requesting changes to be made. We do not think the other alternative to remove the examination process is a realistic or sensible proposition. Given that there is supposed to be 'more democracy', allowing people one chance to comment on proposals, and removing their chance to comment on drafts, have their comments taken into consideration by the local authority, put their point across at examination and also to comment on proposals in the form of a planning application is such a removal of people's ability to engage as to be outrageous. As this 'best in class' engagement process puts all of the meaningful engagement after submission, for the Planning Inspectorate to wade through, the examination becomes an even more vital component of the local plan process. If it was removed the engagement process would need to change from that set out.

Whilst the length of time current local plans take to implement can indeed be a long process, the 30 month timescale proposed is too short and will not give enough time for a thorough review of such an important planning policy document. More time should be allowed for a local authority to write its plan, particularly if it is to include matters that take time, for example design codes and masterplans, and the need to digitise it, which will require different resources. There needs to be more support for local authorities, as the proposed timescales are stringent, and the changes are so radical that it will take time to embed them.

## **Proposal 9 Comments: 'Neighbourhood Plans should be retained as an important means of community input, and we will support communities to make better use of digital tools'**

The current proposals seem only to give lip service to the idea of neighbourhood plans. It is dangerous to raise expectations when it will become clear that little of meaning can be achieved. Development that may concern residents of a street may well all come under permitted development now that this is so wide. At the level of already existing streets the main things of relevance will be extensions and their impact on character and neighbours. With the ability to increase storeys and have two-storey extensions through permitted development, the scope to

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control design is limited. There is little else that may be considered at street level. The potential increase in resource demand on the planning authority must also be considered.

## White Paper: Pillar 2 Responses

### **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]**

Oxford has a large number of distinct character areas with outstanding 20th century and modern architecture, from its historic core with its medieval streets pattern to a very high concentration of statutorily listed heritage assets, Victorian terraces and pre-, inter- and post- war housing as well as significant areas of Green Belt within the city boundary. This cityscape is unique in the country and the impact of development on the character of the city is very closely scrutinised, both by the planning authority and by several interest groups dedicated to the protection of the city's heritage. Use of the Oxford's Design Review Panel Process is embedded in our planning process. This brings local expertise and advice that helps ensure high quality design. Although what is considered beautiful can be highly subjective depending on the observer, this level of scrutiny and interest from both the Council and ordinary citizens ensures that the majority of the development in the city is of high quality and appropriate for the context, particularly with schemes that are of a larger scale or which affect recognised heritage assets or their settings.

Oxford has very recently adopted a new local Plan that recognises the importance of the city's built heritage and the quality of the environment. It includes the following objectives:

- To preserve and enhance Oxford's exceptional built form with its legacy of archaeology and monuments, historic buildings, modern architecture, important views and distinctive townscape characteristics
- To ensure that all new development delivers a high quality of urban design, place making, architecture and public realm, integrating the built and historic environment with modern needs.

### **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]**

The term sustainability is being frequently misused throughout the White Paper, demonstrating the risk of it becoming used as the key test for local plans, which we caution against in our response to Pillar 1. Sustainability is not only about the environment. It should be about social, environmental and economic factors. Social and economic needs are not being factored in, but are just as important. Without them development may be of 'beautiful' design or good carbon efficiency, but that is not enough to make it sustainable, and it should not be suggested that it is.

The positive approach of planning and local plans that takes a holistic view of sustainability, weighing up costs and benefits, is at risk of being lost under the new proposals. The city has recently adopted a new Local Plan to 2036 which aims to support the developing city while promoting a liveable and sustainable environment that balances economic, social and environmental needs. The sustainability objectives of the Plan go beyond focussing on a single priority, but were developed with a holistic mind-set that takes account of the impact of the built environment, protection of

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natural assets at all scales and encouraging more sustainable forms of transport within and into the city, as well as considering social and economic impacts. The suite of policies contained within the Plan include the protection of important green and blue infrastructure, safeguarding open spaces for recreation and public benefit, including the encouragement of the provision of new open spaces in development schemes, the promotion of sustainable design and construction and the promotion of sustainable modes of transport, including the encouragement of car free developments and reducing the reliance on cars particularly in the city centre. There is also a very strong emphasis on high quality design that is based on a thorough site analysis, with requirements for a design statement for all but householder applications.

Whilst many aspects of good design are standard, if policies are to be left to the national level, there is a lack of local democracy and a higher risk of poor outcomes. Ideas of 'beauty' are subjective. Priorities will vary. In Oxford we are content that the Oxford Local Plan 2036's carefully thought-out policies are appropriate for the city and help to ensure good design. We are fortunate that we have developers and landowners such as the universities who have the resources to put into the highest quality of design, with zero carbon ambitions and also who seek to deliver social and economic benefits. In some places decisions have to be made about priorities. This must be done at a local level, but must not become a popularity contest.

## **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.]**

Design-codes are very front loaded – the White Paper is suggesting the development of the design code provides the only opportunity for local people to be involved in the democratic process. A single design code for Oxford would be far too generic. In fact Oxford has many different characters and different sites that would all need different design codes. Even for one small city this is a considerable amount of work. Development takes many years, therefore how often will the codes be revised? A new development may come several years after consultation on the design-code, but local people will have no say on this unless they were involved at the time, which may have taken place many years previously. Much energy is also likely to be expended on debating and agreeing what would be acceptable by the majority. The requirement for empirical evidence would potentially limit the forms of engagement that could take place, and also encourage this to be more of a tick box exercise.

Relying solely on pre-approved 'design-codes' eliminates a whole stage of local oversight. It appears that there is an expectation that public consultation ("effective inputs from the community") informs the local design codes. There is a risk that by only considering "empirical evidence of what is popular and characteristic in the local area" that design innovations are stifled and what is allowed is solely a replica of what currently exists. How will design codes encourage design innovation? Front loading the design into design codes and marginalising architects in later stages is not a good way to increase the quality of housing design across the country as it is possible for proposed architecture to be of high quality design and appropriate for context, without complying with a design code.

There is a place for design codes in the current system, and their greater use is a good idea in principle; however, this should not be at the expense of the entire system and the lack of detail for how this is intended to be achieved makes it difficult to support. We have used design guides to support Area Action Plans, for example in the West End, Barton and the Northern Gateway, and these are beneficial in guiding and helping assess designs. Whilst design guides and codes are particularly useful in speeding up reserved matters applications associated with large developments, they should be seen as one part of the development planning process.

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The emphasis appears to be primarily on the visual and aesthetic elements of the built environment, and care must be taken that in creating a unique character there is no unduly prescriptive framework which can result in identikit, pastiche or uniform places without a distinctive character. While important, visual and aesthetic elements of the built environment are not the only factors to consider when seeking to create good living environments. Key urban design elements such as layout, designing-in existing features and so on, are important and will have a far greater impact on people's experience of a place than the individual design of each building. There does not appear to be reference to elements like the sizes, layouts, density, construction and mixture of uses and tenure. How will there be input into what the buildings actually are used. The balance of uses and an effective spatial strategy is essential in Oxford. There are also no references to adaptability of dwellings, access to open space (public and private), liveable streets and others that relate directly to the health and well-being of people. Such codes would also have to be workable for both urban and rural authorities as there may need to be different approaches.

By focussing on what is locally 'popular' there is the risk that the level of engagement would be very shallow because the visual appearance of development would predominate and would only superficially address the other important elements of what makes a liveable place, if at all. Housing appears to be the central focus but it would be useful to also take account of non-residential buildings and spaces.

It is questionable whether design codes themselves will be robust enough to simplify interpretations of beauty. By its very nature, 'beauty' is subjective and it is unclear what the administrative criteria will be, or how extensive legal arguments over what is beauty can be avoided.

Reference is made to Victorian and Georgian design codes, but these were not across the board and tended to focus on exclusive developments. Furthermore, towns and cities are far more complex now. It is not clear how many design codes would be produced to avoid homogeneity - a common criticism of modern developments. Oxford has a large number of distinct character areas from its historic core with its medieval streets pattern to Victorian terraces and pre, inter and post-war housing. It appears that the Government wishes local guides and codes to be produced wherever possible. In Oxford there is likely to be a strong case to produce design codes for certain types of character area. Training will need to be undertaken to ensure that planners who previously spent their time on other technical aspects of the planning regime (e.g. defending local housing figures) are now re-trained as urban designers.

It is not clear what investment is to be made available to produce the required number of different design codes. The resources and organisation to achieve effective design codes is not evident. In Oxford we do have urban design and heritage specialists embedded within the services, as well as the Oxford Design Review Panel, but we would still struggle to resources this and would require additional training. Many councils do not have this level of resource and there is a shortage of these skills national; significant additional training resource would be required.

The White Paper suggests that the design of new communities will be expected to follow the new national design guidance, code and manual for streets. Will this just apply to new towns or are urban extensions to be included in this as well? Or does this also apply to infill developments, which will very much need to respond to the individual context in which they are proposed?

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**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.]**

We agree that design and place making are important and should be at the heart of planning. We are not sure that a separate officer is needed to carry out a role usually already taken by the head of service. The proposals presented in the White Paper provide no detail on how a chief officer for design would work within the current system, in particular whether this is a collaborative role. Currently design officers work closely with planners as well as with Design Review panels. Good design is a collaborative and iterative process and should not happen in isolation. Having someone in this position in itself will not improve design; it needs to be accompanied by a national direction about the importance of design and planning authorities being properly resourced.

A nationally funded body could be helpful in providing support to planning authorities and industry to improve design. The Design Council, and previously and very successfully, CABE have provided this support and it is regrettable that they were abolished. It is not clear from the current proposals who the new body would be made up of, who would appoint them and on what merit. It is also not clear what the remit would be. Would the formalised body undertake an examination of the local design codes? This could result in local codes/ design guidance taking longer to produce but the resulting codes/ guidance would have more material weight attached. However, where a less stringent design-code review process took place, this would be likely to speed up the overall production process but could result in local codes and guidance which had less material weight as they were not subject to such detailed scrutiny. Would it be a professional body, providing training, advice and guidance, or would it have a monitoring and reporting function? If the latter, it would create an additional burden on local authorities with respect to reporting and monitoring, and would highly centralise the plan making process with reduced local accountability. Locally focused bodies are more likely to be responsive to the needs of localities.

**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.]**

Homes England (as the “government’s housing accelerator<sup>1</sup>”) is responsible for a number of objectives including “increasing the number of new homes that are built in England...” It should be taken as read that Homes England should be concerned with design- and environment-related strategic objectives. The precise wording of these objectives will need careful scrutiny in order to ensure that Homes England leads by example to deliver well designed developments that respect the environment.

Although the exact role that Homes England will play has not yet been decided one potential option is for it be the independent body responsible for setting design standards. While it is desirable to have such a body, insufficient details have been provided as to how what is being proposed is likely to be achieved.

Giving design a greater emphasis in strategic objectives is welcome. However it is important that design quality should be emphasised across all housing offers and tenures, no matter the level of affordability, and not just be a mechanism for adding value by being promoted as an extra. It is also important to recognise that good design is not just limited to visual or aesthetic considerations but

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<sup>1</sup> <https://www.gov.uk/government/organisations/homes-england/about>

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includes all aspects of making the built environment more pleasant and liveable for everyone who interacts with it.

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

## No

We do not agree with the fast-track for beauty. Beauty is both too subjective and too narrow a concept to be the basis of fast-tracking decisions. Other equally or more important considerations will be overlooked.

It will be important to ensure that schemes properly take account any *other relevant planning considerations*. A wider risk of this process is that by oversimplifying the planning system and putting too great an emphasis on design codes (which could be highly subjective) while trying to increase the speed of delivery of housing, is that other relevant planning and design considerations such as the mix of uses are either not fully considered in decision-making or the certainty of a swift approval process envisaged by the authors of this White Paper is reduced as these other considerations need fuller consideration as part of the decision-making process. This is also the case for any prior or pre-approved schemes which may come forward in the “renewal areas”.

The intention to develop a limited set of form-based development types that allow the redevelopment of existing residential buildings where the relevant conditions are satisfied is likely to inhibit or potentially stifle innovation. As much as good examples of this exist (e.g. Bath/ Belgravia), it is not necessarily appropriate to replicate this style of development everywhere. It will be important to look at local distinctiveness as well as the unique qualities of places, when developing design codes. Just because something has worked well in one location does not mean that it will necessarily be well suited to another.

It is hoped that there will be some future guidance (either through the NPPF, or NPPG), on what is meant by ‘gentle densification’ in terms of a nationally set dwellings per hectare rather than leaving it to the courts to determine?

We are concerned that by further extending permitted development rights for residential development (rather than for employment development), the Government only seems interested in a limited range of issues – such as flood risk and securing safe access – to the detriment of other constraints/issues including poor internal spaces and development in inappropriate or inadequately serviced locations.

We are also concerned that by taking a populist approach to planning may result in those more vociferous members of the community dominating conversations, when these voices may not be representative of the wider community as a whole.

## **EFFECTIVE STEWARDSHIP AND ENHANCEMENT OF OUR NATURAL AND HISTORIC ENVIRONMENT**

1. Effective Stewardship – I don’t think we should be trying to summarise (guess?) what the proposals mean, but just stick to responding to them. Otherwise it comes over as rather discursive – this is a response for Government, not a summary briefing, which is how this section reads. Can we tighten this up and limit to expressing concerns and non-support? I think that’s all there, just a bit hidden by the lengthy text.

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In this section there are no questions and two proposals, but a lot of detail to be decided. The following response outlines our thoughts and considerations about how the further details could be most helpful.

The White Paper states that the planning system should take a proactive role in promoting environmental recovery and long-term sustainability, and that it should go further than simply identifying areas to protect. This section is light on proposals but the text mentions legislation outside of planning such as the Environment Bill and the England Tree Strategy as well as the NPPF. With the reduction in scope to negotiate over planning applications locally, including about infrastructure features and carbon efficiency measures, there will be a significantly reduced scope in the planning system to promote environmental recovery and long-term sustainability.

The limited scope that local plans will have to address this at a local level seems to be evident by the only example given being that local plans consider how the identification of the different zones of land and sub-areas can effectively support climate change mitigations and adaptation, for example by high densities and maximising the ability of walking and cycling. The ability to allocate areas for renewable energy within the zoning system is also noted, although from the description of the zonal approach we are unclear how this would work and how these uses can be ensured.

The simplification of local plans and the zoning system and the lack of ability to set relevant policies locally means the suggestion for local plans to consider supporting climate change mitigation misses an opportunity. For example in Oxford we have very stringent policies currently regarding car free developments, because this can be supported. However, it could not be supported everywhere. Likewise, our carbon efficiency proposals are ambitious because our viability allows it. This would inevitably be watered down by the need for national policy that can be implemented everywhere.

We welcome the assertion under proposal 18 that Local Planning Authorities should be accountable for the actions they are taking in relation to sustainability and we would like to continue our efforts to set ambitious local targets. However, as we will not be setting local policies the scope will be limited. It is suggested that the consultation document to follow should propose a reassignment of resources to enforcement. The ability to enforce carbon efficiency measures first requires significant monitoring, which will require a policy framework if it is to be undertaken through the planning system.

The White Paper proposes that there will be a new system to strengthen the protections that make a big difference to species, habitats and ecosystems, rather than SA, SEA and EIA. It is agreed that these documents can become overly long, duplicate work and lead to a loss of transparency. However, they do have an important role in allowing consideration of the whole array of sustainability criteria (in SAs) and having statutory consultees to provide a check. SA in particular can provide an important narrative of the decision-making process, telling the “story” of how the plan strategy for the plan was arrived at. Losing any of these elements of the SA process would be negative. We hope that the consultation on these matters due in the autumn does not remove the need for thorough assessments, subject to checks by the relevant bodies, and that appraisal of sustainability in the round is still required.

It is unclear as yet how the new planning system will build on the provisions of the current NPPF in respect of conserving and enhancing our historic buildings and areas. It is very unclear to us how or for what purpose local plans will mark protected views. Will there be scope to identify new views that should be protected? What will this protection entail, given the limited scope to set policies? Oxford has protected view cones that are long-established and in which policy guides development

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to ensure views are protected. These policies are very specific to Oxford and could not be replicated nationally. There must be scope for us to continue to do this. What would be the scope for us to continue to do this, or to review the views that need protecting over time?

Managing change in the context of significant heritage assets is something Oxford has long experience of. Its rich heritage means that change and growth in the city happens within listed buildings and conservations areas, which have always played a central part in development of the city. We are concerned that the zoning approach, where conservation areas would be protected, will actually prevent us from continuing our approach of carefully managing change, and it is important for the continued success of Oxford that it does not do that.

We are concerned by the wording around historic buildings and energy efficiency measures. It is essential the costs and benefits of proposals are properly weighed up, and this can be best done at a local and often application level. The planning system already allows for historic buildings and buildings in conservation areas to have sympathetic changes that support their continued use and address climate change, balanced against any impacts on heritage significance.

## **Pillar 3 – Planning for Infrastructure and Connected Places**

### **Comments on the overview**

We consider that the implications of the current proposals set out in Pillar 3 raise serious concerns for securing affordable housing, given that S106 agreements are currently the primary legal mechanism for ensuring that developers guarantee the delivery of affordable housing in the UK. The measures proposed in the 'Delivering change' section (page 68), will reduce the provision of affordable homes and therefore act as a further barrier to addressing the serious barriers to economic growth in the city.

Affordable housing units would be lost if the small sites threshold is lifted to 40/50 units, below which developments would not need to make affordable housing contributions. 70% of the total number of affordable homes delivered in Oxford since 2015 has been on sites of less than 50 units. Furthermore, we seek financial contributions from student developments as they increase housing demand across the city. Since 2015 we have secured almost a third of our financial contributions from student developments on sites of less than 50 units. Also the change in the threshold would have a major impact upon our affordable housing supply over the lifetime of our recently adopted Local Plan (June 2020). If the 50 unit threshold were introduced we would lose 406 affordable homes across the plan period. Moreover, we would lose 919 of our most needed social rent units as a result of the introduction of "first homes". In addition to the loss of direct provision of affordable housing we also expect the new threshold to result in 29% of the supply of student accommodation across the city no longer making any affordable housing contributions. Fewer affordable and social homes will likely lead to more households being unable to afford to continue to live in the city, separating families and disrupting communities, while also leading to greater levels of homelessness. Oxford is acknowledged as a city already facing acute affordability and homelessness issues, in 2019-20 the city council owed 710 households a homelessness prevention duty, and 172 relief duties, as of August 2020 there were a total of 2,325 households on the waiting list for social housing, and 225 people were recently housed in emergency accommodation due to the government "everyone in" order due to the pandemic. A reduced supply of social housing brought about by these proposals will make reducing homelessness harder.

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Under proposal 19, the scope of S106 agreements is to be restricted along with CIL and to be replaced by a consolidated Infrastructure Levy. As the rate-setting methodology and guidance has not yet been set, we are concerned about how much affordable housing and infrastructure could be secured via these means. It is doubtful that the measures in proposal 21 will help to guarantee the delivery of affordable housing despite accounting for some of the financial risk involved, and more should be put forward to secure affordable housing as part of these proposals.

**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]**

It is unclear about the purpose or intention of this question in the context of the White Paper. We consider that all these things are priorities when new development comes forward; how we decide on the priorities will depend upon where the site is located in the city and the needs of the particular community and the wider area. The prioritisation of issues such as affordable housing, infrastructure, health provision have to be undertaken in the local context and through a process open to local democratic scrutiny and oversight. Both of these would be removed entirely by these proposals. To suggest that the items in this list can be made a priority over each other at a national level is unrealistic and inappropriate.

Furthermore, quality design is not optional and should be fundamental to the success of new developments. This is important everywhere but in a city like Oxford where the character of the built environment is an integral element of the vibrancy of the city and its economy it is vital. Large new developments should provide green spaces. The current pandemic has reminded everyone how important these spaces are for health and well-being.

We are highly concerned that a centralised approach will result in less of all these things as it will not take account of local market dynamics and viability.

**Question 22a) Should the government replace the community infrastructure levy and s106 planning obligations with a new consolidated infrastructure levy which is charged as a fixed proportion of the development value above a set threshold?**

**No**

We cannot support the proposed Infrastructure Levy as there is insufficient detail provided which raises key concerns about the delivery of affordable housing and infrastructure as well as the increased financial risk that the Council will need to take on by borrowing in order to forward-fund infrastructure. We are concerned that whatever the level of change, the priorities for how it should be spent, or any link to local needs, the proposed system lacks reference to both local democracy and accountability. It is currently very unclear how the proposals will bring forward the proposed benefits – a simpler system; faster process; a clearer process as inevitably the details for how the levy would be applied have not been fully defined yet and inevitably will create complexity down the line.

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The lack of clarity and guidance around these proposals raises concerns for us about how Infrastructure Levy (IL) rates might affect viability; how rates will be set at a national level; how the restriction of the scope of S106 agreements would affect affordable housing and certainty of on-site provisions.

The proposal to set the levy on occupation causes us unease as it will mean that developments are occupied before the necessary infrastructure is delivered, which will create an even larger infrastructure lag than currently exists. It will also make it more challenging to properly plan and embed infrastructure to create well designed, sustainable and healthy new developments. Infrastructure needs must be considered prior to occupation as the delivery of infrastructure could be required for the site itself to be profitable or indeed to function properly or at all (e.g. transport; community facilities; education). The idea to charge IL on occupation is based on the fact that developers carry higher risk; however, we have not found that charging CIL has fettered development in Oxford at all.

Another disadvantage of a singular cumulative levy such as IL is that direct mitigation for the infrastructure requirements of the site may not be guaranteed. In this case, section 106 provides greater certainty that on-site infrastructure needs can be secured on top of affordable housing. Aside from affordable housing, there is little currently proposed to guarantee that funds generated by a site will be spent on it or its neighbouring area. Proposal 22 suggests that keeping the neighbourhood proportion from CIL would help to ensure that infrastructure is paid for in the area that IL is raised, however this primarily funds small items and not strategic infrastructure which enables development and growth in the city (which is what has been secured via S106 agreements).

Furthermore, proposal 22 also suggests that increasing flexibility on how IL funds could be spent could be beneficial, but we are concerned that this further dilutes the fund from being spent on infrastructure needs across a broader range of priorities, in addition to becoming the primary mechanism for securing affordable housing as suggested in proposal 21. It is unclear if the consolidated levy would provide sufficient funds to cover all of these priorities and could be balanced out against viability risk for the developer without a detailed consideration of local viability evidence - as is currently provided at examination for the adoption of CIL rates, as well as to support Local Plan policies and show that their implementation is viable in the round. We note that the levy may vary, but we are not clear how finely grained this variation would be. Even within regions there are considerable variations in viability. Values in Oxford mean that high levels of affordable housing on top of S106 and CIL can be afforded. Overall, it is not clear how setting the levy at a regionally affordable level could do anything other than reduce total receipts. It is suggested that affordable housing levels and tenures must continue to be set locally. That way, gaps in viability can be taken advantage of, i.e. there is likely to be significant headroom in Oxford to afford affordable housing on top of whatever regionally set IL there is.

It is unclear how the development value (GDV) would be assessed and by whom and whether it would be on a site-by-site basis. As no clear methodology has been proposed this makes it very unclear how effectively the new levy might be able to mitigate for the infrastructure needs of new developments. There is a concern about how the fixed rate system set on a national basis would work – too little at present is defined here about how the levy will be calculated and by whom - the magnitude of the rate is important. Capturing uplift from developments is a good idea to proportionately increase contributions if the market value of developments increases. Clarity about how this would be worked out from development values, how existing use value and relevant tax structures and associated viability risks would be assessed, by whom and how associated risks to viability and delivery would be managed.

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What is also unclear is where and how the threshold will be set. A key point of CIL is to capture infrastructure contributions from most developments. Smaller developments have a significant cumulative impact on infrastructure demand. In Oxford small sites are a significant portion of our renewal and housing supply. Given the proposition to raise the affordable housing threshold too, these developments will become increasingly viable, and the threshold for IL would be raised unnecessarily, with substantial loss to infrastructure funding.

The de-minimis threshold needs to be clearly defined and justified to consider if (national, regional) average build costs and a small fixed allowance for land costs sets the levy rate at acceptable levels to raise adequate funds for infrastructure and affordable housing whilst not risking viability of development nationally. We know that viability is not just an issue for low-value developments, and considering only build costs and a small contribution for land costs oversimplifies what could make a development unviable (for example, abnormal on-site infrastructure costs). It is unclear how well the threshold currently would mitigate for viability risk overall and if the set threshold would generate adequate amounts of IL for infrastructure and affordable housing, given that the threshold value will be deducted from overall levy for liable sites. In high value areas such as Oxford it is inevitable that less would be available under the proposed changes. Affordable housing should not be part of the levy but should be secured on top based on local viability.

**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]**

We considers that this should be **set locally** as there are differences in land and development values at a fine grain, even within a singular authority. The great variations in how current CIL rates are set across the country have required detailed bespoke economic viability studies which are evidenced and tested at examination to demonstrate that setting CIL rates will not adversely affect the viability of developments coming forth. It is unclear how, if viability studies are indeed to be removed, a rate at a national level could be agreed; especially if it would yield appropriate levels of IL to meet the varied and specific balance between viability and developer contribution rates that current bespoke viability tests provide. For IL to be desirable, a robust methodology should be proposed which considers the balance between developer contributions, affordable housing and viability, to work on a local level.

It is vital that opportunities for infrastructure and housing delivery are not lost in an attempt to look at too wide an area when setting the IL. Even within regions and sub-regions viability varies widely. As suggested in response to the question above, setting affordable housing requirements locally should also take place as the amount that can be afforded (as well as need) will vary significantly.

**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.]**

This will need to be based on a robust methodology which considers viability risks which has not yet been proposed. With the loss of S106 agreements, IL is likely to need to be set at higher rates to mitigate for infrastructure and compensate for payments in-kind for the affordable housing currently being secured by s106 agreements (and potentially to further meet policy objectives as

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proposed in Proposal 22). As a minimum, we at Oxford City Council uses both CIL and S106 agreements, the new levy should be able to capture the same level of infrastructure funding, on-site provisions and affordable housing as the two combined.

Overall, it should be clear that at least equivalent or higher contributions should be sought as the majority of CIL charging authorities demonstrate substantial infrastructure funding gaps, which cannot be fully covered by CIL (Oxford's gap was previously assessed as greater than £100 million)<sup>2</sup> – however with the lack of rigorous viability assessments (as proposed) it is uncertain what effects a higher levy could have under the proposed changes. As a rate or methodology has yet to be proposed, increasing rates further could be at a cost to the overall viability of development and it is unclear how a fixed rate as a percentage of final value might affect developments across Oxford or different use classes disproportionately.

It would also be useful to have more detail on how the minimum threshold for infrastructure contributions is to be set and at what level; as Oxford currently charges across the majority of its use classes to obtain its current levels of CIL. Setting rates and the minimum threshold at the right balance to adequately fund infrastructure and affordable housing may in the end be a highly complex process which would not be advantageous to adopt over the current developer contributions.

Independently of the intentions of the Infrastructure Levy to raise overall national levels of developer contributions, being able to support the levy will be a case of understanding if the Infrastructure Levy is likely to indeed deliver higher or equivalent contributions in a way that delivers infrastructure and affordable housing across the UK without adversely affecting the viability of developments coming forth.

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

We would not like to rely on borrowing as this would incur high levels of risk for local authorities. We are concerned about borrowing against potential IL income and have never needed to borrow before with CIL and S106. Our initial concerns are that by borrowing against the infrastructure levy to forward fund infrastructure, it would be putting the Council in danger by borrowing and spending upfront if developments do not come to fruition or are subject to delay. Furthermore, to reclaim the full amount of IL on a development would rely on the fact that every unit would need to be occupied which may be an issue for large strategic sites. This places substantial and uncertain timescales and financial risks when money is borrowed for infrastructure and affordable housing from when permission is granted and when IL could be fully reclaimed from a site. There would also be new and considerable administrative costs incurred to monitor occupation across large sites in the city. This creates further complications which is what the newly proposed levy is seeking to minimise.

Overall, if the scope of Section 106 agreements is to be restricted and IL is to be charged on the occupation of dwellings, local authorities will have no choice but to borrow against the IL to forward fund infrastructure as often upfront funding is required to ensure that infrastructure will be delivered in a timely fashion, in tandem with the developments they mitigate for. Weighing up the risks on which items to borrow funding for, may cause unintended delays in the delivery of infrastructure. It is unclear how many local authorities will want to take up the risks associated with borrowing given strained financial pressures following the COVID crisis. However, we do acknowledge that there may well be a place for some authorities to borrow against future CIL

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<sup>2</sup> [https://www.oxford.gov.uk/downloads/file/5137/infrastructure\\_funding\\_gap](https://www.oxford.gov.uk/downloads/file/5137/infrastructure_funding_gap)

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receipts and we note that this can be effective. As such authorities should reach their own decisions to suit their own local needs.

We would like further clarity as to how the charge could be levied for large sites which are phased in development as the triggering of the levy will be important to understand (e.g. if this is on occupation of each individual dwelling; occupation of a block or alternatively, first or last occupation of a phase/block triggering payment of levy of whole phase). Triggering liability on first occupation could help to minimise risk for local authorities when borrowing to forward fund infrastructure. Furthermore, for non-residential use classes, (if IL is to be the same across all use classes) it would also be useful to have clarification of when IL is levied (e.g. commencement) as these are not 'occupied' in the same way as residential developments. Currently the lack of detail and lack of risk mitigation measures makes borrowing an undesirable option to fund infrastructure. Currently the local approach allows us to agree phasing and adjust triggers in response to individual site circumstances in order to aid delivery

The White Paper sets out that currently, despite early payment with CIL, money has been slow to be spent due to issues such as 'competing spending priorities' and 'uncertainty over other infrastructure funding streams'. The new proposals do not help to resolve such issues, and in fact with a higher emphasis on borrowing to forward fund infrastructure, this may further complicate prioritisation between infrastructure, affordable housing and proposed additional policy priorities - creating unintended delays.

**23. Do you agree that the scope of the reformed Infrastructure Levy should capture changes of use through permitted development rights? [Yes / No / Not sure. Please provide supporting statement.]**

**Yes**

The ability to charge on change of use is positive as there will be increased valued from the change and in some cases increased infrastructure impacts. We have concerns that large developments under prior approval and permitted development rights have not been contributing towards mitigating for additional infrastructure, despite in practice adding additional strain to existing infrastructure. This should consider viability of different uses as it should only be applied where there are increased values.

**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**

We should aim to secure at least the same level of affordable housing, within Oxford, although there are serious concerns about how this would be achieved as highlighted earlier. In addition to the level of affordable housing the tenure split is also very important. In Oxford 40% of the total units on a housing development are required to be social rented. This helps to meet the greatest need. The tenure split should also be retained. Before we can support implementation of a new levy, we would require further assurance that both the same level of affordable housing *and* infrastructure can be delivered with the consolidated levy, ideally with further risk mitigation set in place if affordable housing is not delivered.

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**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.]**

**No**

We cannot support the levy without assurance that delivering equal or higher amounts of affordable housing would be possible at the rates set – there is a serious concern here that with restriction on the scope of S106 agreements that there will be no legal mechanism for ensuring the same level of affordable housing contributions or higher. None of the risk mitigation measures proposed account adequately for the delivery of affordable housing.

With the 'right to purchase' alternative it is currently unclear what percentage of a new development could be secured for affordable housing (at build costs) - as a national methodology has not been proposed for IL income. Under our current local policy we currently secure 50% as part of a local affordable housing requirement. The proposed policy would need to match this before we could support this. Furthermore, we specify a tenure mix that includes 80% of affordable units to be social rented. It is unclear what the implications of the White Paper proposals would be on tenure mix, but we feel it is unlikely that this regime would offer the same opportunity to set this. Affordable housing should be planned to be tenure blind with a mix across the site. It is important that if there is a right to purchase it is open to any units on the scheme to ensure a desirable mix of units appropriately spread within the development. It is also unclear if right of first refusal could deadlock IL funds which could pay for this affordable housing, as this stops occupation of the site. It is also unclear how well the lower threshold for smaller sites would generate cash contributions above the broader de-minimis threshold.

**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.]**

Although this would be helpful, this does not address the risks that we are concerned about. We need to deliver affordable housing (AH) and are concerned about the lack of guarantee in delivering affordable units under proposal 21 and the financial risk of borrowing against future levy as previously mentioned – with the 'reclaim' on future borrowing against IL contingent upon full occupation of developments.

The risk mitigation measures as proposed do not give us confidence, particularly as none prioritise the delivery of affordable housing. The proposal to flip affordable units to market units to sell if Levy liabilities are insufficient to cover value secured through in-kind contributions merely acts as a financial assurance if AH units are not sold; however this is at a direct loss to the delivery of affordable housing which we would not want to occur. The inability for developers to claim overpayment if in-kind value exceeds the final levy liability would be helpful (for example if development fails to generate enough IL beyond the in-kind provision given from selling discounted units), however it does not account for the greater risk that affordable housing in general would need to be secured by IL.

**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.]**

**Yes**

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We need to be able to set standards based on our local needs in Oxford but there are other proposals in the White Paper that would compromise our ability to do so. We have policies in the local plan which consider space standards, energy efficiency, carbon reduction, adaptable homes and water use, which apply to market and affordable housing. Without a S106 agreement, or policies that are as locally relevant and account for needs, we would need mechanisms to ensure adequate quality in the affordable housing, as well as to ensure needs for wheelchair adaptable and homes etc. are met. If there were additional measures it is unclear how this could be set at a national level, given that there may be varying requirements and priorities for different local authorities. Clearly any affordable housing should be delivered to high standards, particularly if the alternative arrangement of proposal 21 is implemented where Local Authorities/Registered Providers could have first refusal with AH providers able to buy a proportion of AH units at a discount equivalent to build costs (with developers having discretion over which units could be bought in this way). Essentially, we would not want to incentivise the building of low quality housing and implementing additional steps could help.

Measures to revert back to cash contributions if RPs do not want to buy homes due to poor quality are good as a disincentive for poor quality housing and although there is an option proposed to accept infrastructure payments in the form of land, we do not anticipate that developers will want to do this.

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

We need more details as to how we can reliably secure affordable housing and on-site mitigation by some other means that through legal agreements and CIL. Further assurance that the consolidated IL tax would be able to account for that (ideally with a robust and well justified methodology) is needed.

In theory it seems fair that local authorities could spend receipts on their policy priorities, once core infrastructure obligations have been met. However, in practice it is not clear what this would mean. Where will it be decided what 'core infrastructure obligations' are? Presumably this is suggesting that these are set nationally, but how can they be the same across the country? Why is it assumed that policy priorities would not tally with core infrastructure obligations? What would these be locally anyway, given that there is so little scope proposed to set policies in local plans. Presumably this means wider council policy priorities that are set outside of planning altogether? 'Local' infrastructure seems to be being separated from 'core infrastructure obligations'. Core infrastructure obligations may mean strategic infrastructure for which there is a cumulative need generated. Is this to be prioritised over 'local infrastructure'? Before setting the amount, why is it assumed that there will be any money remaining after core infrastructure needs have been taken care of to fund 'local infrastructure'? Of course, without affordable housing obligations this might be possible, but at what cost? We do not agree with the apparent decision to take away developers' obligations to meet the infrastructure needs directly generated by their sites whilst also not having to provide affordable housing, leaving prioritisation decisions to central government. The greater flexibility proposed is not enough. Prioritising and decisions on spending on infrastructure should remain local.

Without S106 there is a danger that core infrastructure needs will not be met. The solution is to continue to ensure developers do meet these directly which take some negotiating. To avoid this there could be an obligation to produce a local infrastructure needs assessment. In a two-tier authority this would need to apply to the wider area, with an agreed list of priorities. This would have far better information as to what the 'core infrastructure needs' will be than any attempt to do

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this nationally. After determining core needs it could then be down to each local authority to identify and prioritise more local needs.

It is inconceivable that this system would generate revenue in excess of infrastructure needs and affordable housing needs. It should only be possible to use receipts to administer the infrastructure service provision. It should be to fund infrastructure need generated by developments, not to fill in gaps in service funding or to reduce council tax. If these decisions are chosen because of local popularity of those choices, services will have an even higher burden, quality of life would reduce because of pressure in infrastructure and most likely inequalities would worsen. The burden on neighbouring authorities would also be increased, because infrastructure needs will have to be met somewhere.

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

**Not sure**

Our concern with this approach overall is the impact on the delivery of affordable housing. We don't know where thresholds and requirements would be set or how they will vary nationally or the flexibility local authorities will have in ensuring it is delivered. It must not be the case that authorities could decide not to spend on affordable housing, because this will only increase pressure elsewhere. Therefore, a ring-fence does seem necessary. We would prefer to use local intelligence to determine how much is required rather than applying a rigid 'ring-fencing' requirement. It is unclear with the current proposals how effective ring-fencing would be in securing affordable housing when balanced against infrastructure funding and funding potentially being further allocated to meeting other policy objectives as set out in proposal 22. If authorities have the power to make delivery of AH mandatory on specific sites as is suggested in proposal 21 in addition to ring-fencing this would go some way to ensuring affordable housing is delivered, and we think there should be no reduction in the amount of affordable housing we are able to deliver (or change to the tenure split). Mention is given to delivering on-site at current levels or higher. It is not made clear whether that means current levels averaged across the country, or the current levels in each planning authority area. We would welcome the latter, although this highlights the issues arising from not viability testing at a local level, because how could it be certain that these levels continue to be viable?

**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?**

The enhanced and wider use of digital technology within the planning system is definitely welcomed, however there must be some acknowledgement that this method of consultation and engagement with the community should not be completely relied upon. It is not the most suitable means for everyone, it does not promote equality for all nor does it set a level playing field for everyone to have their say. Other consultation methods must still exist so that we do not disenfranchise a sector of our society who may not have the capabilities or willingness to engage in this manner. Oxford comprises a diverse society and no group should be excluded from the engagement process. The council's localities team already do some excellent work with some of the hardest to reach groups in the city but they acknowledge that this is not an easy task. They have recognised that building and promoting relationships with people face to face often results in the most meaningful engagement, which is something that this government would like to achieve. However, the government need to recognise that a one size fits all approach to engagement would not be suitable and could widen the

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divide further between those who are currently able to be or are actively involved in engaging with the planning process from those that aren't or cannot. There are also still areas within the country that have either no or unreliable broadband access that would exclude them from engaging should the process all be undertaken digitally. Some people either cannot or may not wish to communicate their views on planning matters in this way and we must ensure that we do not exclude them from the process.

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