



## **Berkhamsted Town Council: Consultation Response**

### **WHITE PAPER: PLANNING FOR THE FUTURE**

#### **Context**

The Ministry of Housing, Communities and Local Government has issued a new consultation on planning for the future. This consultation seeks any views on each part of a package of proposals for reform of the planning system in England to streamline and modernise the planning process, improve outcomes on design and sustainability, reform developer contributions and ensure more land is available for development where it is needed.

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This reply to the Consultation is made on behalf of Berkhamsted Town Council, a Parish of some 16,000 in the area of Dacorum Borough Council, Hertfordshire. The Council is a statutory Consultee on all planning applications within the parish and is consulted on important or strategic matters from adjacent councils.

The Consultation has attempted to set out a direction of travel in the planning process that ostensibly is aiming to simplify and streamline the process: the result is not unlike the curates egg, leaving a host of issues that are part cooked, ill thought through and will require considerable further work before they can be regarded as workable planning policies. While speeding up the application approval process is a laudable objective, the suggested 'cure' is very likely to remove checks and balances in the system that act as a brake on the more egregious behaviours of developers. Many of the proposals have the hall mark of a fundamental lack of understanding of the detail involved with major developments.

Pillar One – Planning for development			
Page ref.	PROPOSALS	Question by number	COMMENT/RESPONSE
		<p>1. What three words do you associate most with the planning system in England?</p> <p>2. Do you get involved with planning decisions in your local area? [Yes / No]</p> <p>(a). If no, why not? [Don't know how to / It takes too long / It's too complicated / I don't care / Other – please specify]</p> <p>3. Our proposals will make it much easier to access plans and contribute your views to planning decisions. How would you like to find out about plans and planning proposals in the future? [Social media / Online news / Newspaper / By post / Other – please specify]</p> <p>4. What are your top three priorities for planning in your local area? [Building</p>	<p>Important for <b><i>Community engagement and Place making.</i></b></p> <p>2. Yes, the Town Council is a statutory consultee Experience over many years tells us that it is unusual for residents to take notice of individual householder applications unless they are in the immediate vicinity, and then only if it adversely affects the neighbours.</p> <p>3. A letter is arguably the 'best' way to ensure nearby residents learn of a householder application. As yet, not many residents use social media.</p> <p>The Council has access to the Borough's list of applications.</p>

		<p>homes for young people / building homes for the homeless / Protection of green spaces / The environment, biodiversity and action on climate change / Increasing the affordability of housing / The design of new homes and places / Supporting the high street / Supporting the local economy / More or better local infrastructure / Protection of existing heritage buildings or areas / Other – please specify]</p>	<p>4.</p> <ul style="list-style-type: none"> <li>i) Meeting areas need for affordable/social rent homes.</li> <li>ii) Better local infrastructure to cope with current level of population – hard – viz roads etc and ‘soft’ viz GPs, schools, bus services.</li> <li>iii) The environment, biodiversity action on Climate Change</li> </ul>
<p><b>Proposal 1 P24</b></p>	<p><b>Proposal 1: The role of land use plans should be simplified. We propose that Local Plans should identify three types of land – Growth areas suitable for substantial</b></p>	<p>5. Do you agree that Local Plans should be simplified in line with our proposals? [Yes / No / Not sure. Please provide supporting statement.]</p>	<p>5. Designations suggest tinkering for sake of it.</p> <p>This is remarkably similar to current practice – Large Strategic Sites = Growth Areas zoned for redevelopment = Renewal</p> <p>Conservation areas = protected, with limited scope for development.</p>

	development, <i>Renewal</i> areas suitable for development, and areas that are Protected.		
Proposal 2 P 25	<b>Proposal 2: Development management policies established at national scale and an altered role for Local Plans.</b>	6. Do you agree with our proposals for streamlining the development management content of Local Plans, and setting out general development management policies nationally? [Yes / No / Not sure. Please provide supporting statement.]	6. To the extent that the various versions of the NPPF have sought to provide the overarching framework, this is already the case. But does it help to revisit the NPPF as frequently?  Local Plans – depends on degree of detail envisaged for local sites and their designations.
Proposal 3 P26	<b>Proposal 3: Local Plans should be subject to a single statutory “sustainable development” test, replacing the existing tests of soundness.</b>	7. Do you agree with our proposals to replace existing legal and policy tests for Local Plans with a consolidated test of “sustainable development”, which would include consideration of environmental impact? [Yes / No / Not sure. Please provide supporting statement.]  (b). How could strategic, cross-boundary issues be best planned for in the absence of a formal Duty to Cooperate?	7a) It would be helpful if the Ministry could provide a suitable definition of ‘sustainable development’ and its scope. [There is currently widespread antipathy to the misuse of the term.]  It would be a strategic mistake to abandon the ‘soundness’ test: one facet is how well a large strategic site integrates into its host township.  7b) Experience shows a Duty to co-operate does not necessarily lead to a shared solution. A possible solution to DtC is for a higher-level body to oversee the cross-boundary issue and adjudicate.

<p>Proposal 4 P 27</p>	<p><b>Proposal 4: 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. The housing requirement would factor in land constraints and opportunities to more effectively use land, including through densification where appropriate, to ensure that the land is identified in the most appropriate areas and housing targets are met.</b></p>	<p>8. (a) Do you agree that a standard method for establishing housing requirements (that takes into account constraints) should be introduced? [Yes / No / Not sure. Please provide supporting statement.]</p> <p>(b). Do you agree that affordability and the extent of existing urban areas are appropriate indicators of the quantity of development to be accommodated? [Yes / No / Not sure. Please provide supporting statement.]</p>	<p>8a) This Council has replied to the consultation and asserts the standard method as proposed is flawed.</p> <p>8b) The wrong question is being asked: the premise should start from a profound understanding of what are the numbers of local unmet housing needs – the mix for Affordable/Social Market to open market housing, and whether this first meets the local need before taking account of a share of the national projection. Household formation is a crude proxy for local demand and fails as a signal for long term local needs.</p> <p>The intra-Urban Capacity with densification is a second order issue and is greatly influenced by the nature and character of the urban area.</p>
<p>Proposal 5 P29</p>	<p><b>Proposal 5: Areas identified as <i>Growth</i> areas (suitable for substantial development) would</b></p>	<p>9. (a). Do you agree that there should be automatic outline permission for areas for substantial development (Growth areas) with faster routes for detailed</p>	<p>9 a) Carts and Horses appear to be forgotten here: designating a Strategic site for ‘Growth’ will require some form of ‘master plan’ and plan for infra structure – before development can be committed. It is not clear which body has</p>

	<p><b>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.</b></p>	<p>consent? [Yes / No / Not sure. Please provide supporting statement.]</p> <p>(b). Do you agree with our proposals above for the consent arrangements for Renewal and Protected areas? [Yes / No / Not sure. Please provide supporting statement.]</p> <p>(c). Do you think there is a case for allowing new settlements to be brought forward under the Nationally Significant Infrastructure Projects regime? [Yes / No / Not sure. Please provide supporting statement.]</p>	<p>responsibility for defining this – the LA or Developer? At what stage should Outline Permission be ‘granted’?</p> <p>9 b) No. The character of the Protected Area requires sensitive consideration. Pre-established development types will seldom fit the bill.</p> <p>9 c) Yes. But such projects should come forward with proper and adequate level of detail and funding to see project implemented, albeit with co-partnership developers.</p>
<p><b>Proposal 6 P 31</b></p>	<p><b>Proposal 6: Decision-making should be faster and more certain, with firm deadlines, and make greater use of digital technology</b></p>	<p>10. Do you agree with our proposals to make decision-making faster and more certain? [Yes / No / Not sure. Please provide supporting statement.]</p>	<p>11. In principle – agree. Devil is in the detail. The data shows 89% of applications are decided in 13 weeks. Large developments involve huge level of detail and require significant time and resource.</p>
<p><b>Proposal 7 P 33</b></p>	<p><b>Proposal 7: Local Plans should be visual and map-based,</b></p>	<p>11 Do you agree with our proposals for accessible, web-based Local Plans? [Yes / No / Not sure. Please provide supporting statement.]</p>	<p>11 Web based Local Plans – while desirable is no substitute for locally accessed documents, particularly of large schemes of some complexity.</p>

	<b>standardised, based on the latest digital technology, and supported by a new template.</b>		<p>Access to PDF Local Plan should be comparatively simple to implement widely.</p> <p>The investment required to adopt web based Local Plans will be substantial.</p>
<b>Proposal 8 P34</b>	<b>Proposal 8: 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.</b>	<p>12 Do you agree with our proposals for a 30-month statutory timescale for the production of Local Plans? [Yes / No / Not sure. Please provide supporting statement.]</p>	<p>12. An important element of communities having trust and confidence in local plans is the local endorsement of their contents.</p> <p>It is unlikely that 30 months provides sufficient time for plan preparation and adequate degree of consultation.</p> <p>The LPA should be involved in any consideration of the sanction processes.</p>
<b>Proposal 9 P36</b>	<b>Proposal 9: Neighbourhood Plans should be retained as an important means of community input, and we will support communities to make</b>	<p>13 (a) Do you agree that Neighbourhood Plans should be retained in the reformed planning system? [Yes / No / Not sure. Please provide supporting statement.]</p> <p>(b). How can the neighbourhood planning process be developed to meet</p>	<p>13.</p> <p>a) Neighbourhood Planning was an interesting initiative – better as a concept than reality, as is shown by the relatively poor take up across the country.</p> <p>b) Communities need access to funds and expertise to undertake the detailed work and consultations leading to an adopted Plan.</p>

	<b>better use of digital tools</b>	our objectives, such as in the use of digital tools and reflecting community preferences about design?	It will be a challenge for communities to agree their preferences about design, moreover, few communities have the competence or expertise to deliver design solutions that stand the test of time.
<b>Proposal 10 P37</b>	<b>Proposal 10: A stronger emphasis on build out through planning</b>	14 Do you agree there should be a stronger emphasis on the build out of developments? And if so, what further measures would you support? [Yes / No / Not sure. Please provide supporting statement.]	14 Sanctions on developer led schemes will be counterproductive – arguably accentuating the ‘feast/famine’ effect of the general market viz. developers will only embark on sites to complete numbers of dwellings that can be sold within the designated time. Perhaps the loss/ withdrawal of consent for the unbuilt site might bring a change of attitude and stronger commitment to the consented site.  There is a case to resource LA to build Affordable Homes to balance the variability of supply arising from reliance on market forces.
<b>PILLAR Two: Planning for beautiful and sustainable places</b>			
		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	15 The most recent ‘large’ scale developments included on-site ‘affordable’ as well as costly ‘executive homes built by a developer of national standing. The cramped settings to achieve density standards detract from their otherwise attractive design.

		been any / Other – please specify]	
		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]	16. <ul style="list-style-type: none"> <li>• Less reliance on cars</li> <li>• Good pedestrian and cycle routes, and public transport with links to town centre/station</li> <li>• More green and open spaces</li> <li>• Play space – National Playing Fields Standards</li> <li>• Energy efficiency of new buildings and charging points for Electric Vehicles.</li> <li>• More trees</li> </ul>
Proposal 11 P 39	<b>Proposal 11: To make design expectations more visual and predictable, we will expect design guidance and codes to be prepared locally with community involvement, and ensure that codes are more binding on</b>	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.]	17 Is the Ministry re-inventing the wheel? Developers appear to have adopted a portfolio of designs which are built in a palette of materials to suit local conditions. <ul style="list-style-type: none"> <li>• The adoption of materials etc. is currently negotiated between the developer and LA – a compromise of the practical and cost effective. Local engagement to confirm the choice is feasible, but developers would be unwilling to let the community have</li> </ul>

	<p><b>decisions about development.</b></p>		<p>carte blanche engagement with designs or materials.</p> <ul style="list-style-type: none"> <li>• Design codes to determine energy use or water conservation measures are desirable.</li> <li>• Being in the Chilterns, the Conservation Board has a published Design Code that developers are encouraged to adopt for dwellings in or adjacent to the AONB.</li> </ul>
<p>Proposal 12 P 40</p>	<p><b>Proposal 12: To support the transition to a planning system which is more visual and rooted in local preferences and character, we will set up a body to support the delivery of provably locally-popular design codes, and propose that each authority should have a chief officer for design and place-making.</b></p>	<p>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.]</p>	<p>18. There is little detail on how this would be resourced, although we welcome the reference to bringing forward proposals for improving the resourcing of planning departments. Local authorities should be fully engaged on establishing resource requirements and how those resources are to be funded and delivered.</p> <p>Consideration should be given to any new body giving support to Universities to further raise the standard of future planners or development designers.</p> <p>Whilst a chief officer for design and placemaking might assist in raising standards, more likely for success would be the training and reskilling of decision-making officers.</p>

<p><b>Proposal 13 P41</b></p>	<p><b>Proposal 13: To further embed national leadership on delivering better places, we will consider how Homes England’s strategic objectives can give greater emphasis to delivering beautiful places.</b></p>	<p>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.]</p>	<p>We need to know more what are Homes England’s Strategic objectives, which should include greater emphasis on pioneering low cost building methods with lesser priority on maximising land sales values.</p>
<p><b>Proposal 14 P43</b></p>	<p><b>Proposal 14: We intend to introduce a fast-track for beauty through changes to national policy and legislation, to incentivise and accelerate high quality development which reflects local character and preferences.</b></p>	<p>20 Do you agree with our proposals for implementing a fast-track for beauty? [Yes / No / Not sure. Please provide supporting statement.]</p>	
		<p><b>Proposals 15 -18</b></p>	

	<p><b>Proposal 15: We intend to amend the National Planning Policy Framework to ensure that it targets those areas where a reformed planning system can most effectively play a role in mitigating and adapting to climate change and maximising environmental benefits.</b></p>		
	<p><b>Proposal 16: We intend to design a quicker, simpler framework for assessing environmental impacts and enhancement opportunities, that speeds up the process while protecting and enhancing the most valuable and important</b></p>		<p>Protection of places of environmental and cultural value of great importance to this Council.</p> <p>We welcome measures that protect and enhance the environment.</p>

	<b>habitats and species in England.</b>		
	<b>Proposal 17: Conserving and enhancing our historic buildings and areas in the 21st century</b>		
	<b>Proposal 18: To complement our planning reforms, we will facilitate ambitious improvements in the energy efficiency standards for buildings to help deliver our world-leading commitment to net-zero by 2050.</b>		This Council declared a Climate Emergency in 2019 and is very mindful of environmental concerns and long-term sustainability.
	<b>Pillar Three – Planning for infrastructure and connected places</b>		
<b>Overview S106/CIL P47</b>		21 When new development happens in your area, what is your priority for what comes with it? [More affordable housing / More or better infrastructure	<ul style="list-style-type: none"> <li>a) Meeting area’s need for affordable/social rent homes.</li> <li>b) Better local infrastructure to cope with prevailing population – hard – viz roads etc and ‘soft’ viz GPs, schools, bus services.</li> </ul>

		<p>(such as transport, schools, health provision) / Design of new buildings / More shops and/or employment space / Green space/ Don't know / Other – please specify]</p>	<p>c) Sustainable community hub.  d) The environment, biodiversity with action on Climate Change  e) Adequate provision of public access play spaces e.g. football pitches, kiddies LEAPS etc.</p>
<p><b>Proposal 19 P50</b></p>	<p><b>Proposal 19: The Community Infrastructure Levy should be reformed to be charged as a fixed proportion of the development value above a threshold, with a mandatory nationally-set rate or rates and the current system of planning obligations abolished.</b></p>	<p>22 (a) Should the Government replace the Community Infrastructure Levy and Section 106 planning obligations with a new consolidated Infrastructure Levy, which is charged as a fixed proportion of development value above a set threshold? [Yes / No / Not sure. Please provide supporting statement.]</p> <p>(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]</p> <p>(c) Should the Infrastructure Levy aim to capture the same amount of value</p>	<p>22 a) This is yet another attempt to 'reform' or rebalance for the community the uplift in land 'value' following planning consent. Previous regimes have never survived for long, as developers or land owners know they can withhold development until a more favourable regime is introduced.</p> <p>The adoption of CIL has been patchy across the country, but in this Borough and local area the levy has ensured development makes a contribution to local infrastructure needs – avoiding the 'free ride'.</p> <p>CIL might be more widely adopted if there were fewer exceptions.</p> <p><b><i>Without knowing what is proposed to replace S106/CIL and how the levy is to be applied to a local site we cannot make a judgement.</i></b></p>

		<p>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.]</p> <p>(d) Should we allow local authorities to borrow against the Infrastructure Levy, to support infrastructure delivery in their area? [Yes / No / Not sure. Please provide supporting statement.]</p>	<p>22 b) Given the wide variation in the cost of incorporating appropriate infrastructure, it would be unwise to adopt a single rate for the National Infrastructure Levy</p> <p>22 c) There is no simple answer to this: with major developers achieving long run shareholder returns in excess of 20%, it is clear the state is not recovering a 'fair' share of the uplift in value as a contribution to infrastructure or affordable homes.</p> <p>22 d) It is desirable that Infrastructure is made available at the outset of site development. The IL should be a precondition for speculative site development – why should a public body be obliged to borrow to fund it? The argument would be different if e.g. Homes England was initiating the development [like New Towns Commission] when the State Agency would fund the infrastructure.</p>
<p><b>Proposal 20</b></p>	<p><b>Proposal 20: The scope of the Infrastructure Levy could be extended to capture changes of use through permitted development rights</b></p>	<p>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.]</p>	<p>23 Yes. The principle should be that all new demands on existing infrastructure should carry some form of Levy – determined locally within a framework to reflect local conditions.</p>

<p><b>Proposal 21 P52</b></p>	<p><b>Proposal 21: The reformed Infrastructure Levy should deliver affordable housing provision</b></p>	<p>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.]</p> <p>(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.]</p> <p>(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.]</p> <p>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.]</p>	<p>24.</p> <p>a) In principle – yes. But in light of developer returns, there appears to be scope for a higher proportion than at present.</p> <p>b) The Local Authority should have both options. Some sites may not be able to have on-site affordable homes, so payment or in-kind contributions would apply.</p> <p>c) and</p> <p>d) the LA can take advice from suitably qualified bodies and Quantity Surveyors. In terms of build quality, there should be pre-defined build specifications and regular on-site inspections.</p>
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<p>Proposal 22 P53</p>	<p><b>Proposal 22: More freedom could be given to local authorities over how they spend the Infrastructure Levy</b></p>	<p>25 Should local authorities have fewer restrictions over how they spend the Infrastructure Levy? [Yes / No / Not sure. Please provide supporting statement.] (a) If yes, should an affordable housing 'ring-fence' be developed? [Yes / No / Not sure. Please provide supporting statement.]</p>	<p>25 If the IL is to replace S106 and CIL, it follows that new regulations should apply.  We argue in support of our LA that there should be a definition in the NPPF of the quantum of affordable homes when determining the site parameters. This will overcome and simplify negotiations with developers.</p>
<p><b>Delivering change</b></p>			
<p><b>Proposal 23: As we develop our final proposals for this new planning system, we will develop a comprehensive resources and skills strategy for the planning sector to support the implementation of our reforms. In doing so, we propose this strategy will be developed including the following key elements:</b></p>			
<p><b>Proposal 24: We will seek to strengthen enforcement powers and sanctions</b></p>			
<p>P59</p>		<p>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?</p>	