



Planning for the Future

Consultation Response

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Inceni Projects Limited
On behalf of Catalyst Housing

October
2020

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1. ABOUT CATALYST

1. Catalyst is one of the UK's leading housing associations, owning and managing over 34,000 homes housing over 65,000 customers in London and the South East. We are a member of the G15 group of large London housing associations and BuildEast group of large developing housing associations in the East of England.
2. We are passionate about delivering homes people love and one of our key strategic objectives is to build more quality homes across all tenures. In line with this we would like to see reforms to the planning system which supports these aims and objectives and delivers high quality places and more affordable homes. We welcome the opportunity to comment on the Government's consultation on reforming the planning system.
3. We have an excellent track record in successfully delivering major development projects. We build homes to high standards and provide sustainable and mixed tenure communities. By 2020 we expect to build more than 7,000 new homes, which will house over 21,000 people.
4. We have extensive experience of delivering complex, multi-phase regeneration projects. These enable neighbourhoods to thrive, foster economic and community benefits and physically transform areas.
5. Icenl are an award winning, multi-disciplinary planning-led consultancy. Icenl are currently involved in projects amounting to 100,000 new homes in the UK. They have significant experience assisting with national planning policy reforms and have been commissioned by us to assist with the production of a bespoke set of representations, which seeks to combine our knowledge and experience to deliver a set of recommendations for planning reforms which will bring forward the best outcome for the housing and development sector.

2. INTRODUCTION

1. We welcome the objectives of speeding up the planning process to deliver more homes and improve design. Many of these proposals are sensible and should be developed further. However, we are unsupportive of the way they are proposing to merge s106 and CIL because of the impact we see this having of reducing the quantum of affordable housing. Where appropriate, we have included recommendations bullet pointed in summary at the end of longer responses on how to improve or amend policy proposals.
2. Notably, a number of the policy reforms are conceptual at this stage and we have sought to provide comments to allow these to be developed further as appropriate.
3. In summary the key points we would raise are as follows:
 - We oppose the merging of Section 106 and the Community Infrastructure Levy (CIL) as we consider, despite the ambition of the proposals, that this will reduce the quantum of affordable housing delivered through the planning system. We urge the government to protect affordable housing delivery and retain the link between the acceptability of a planning application and the level of affordable housing provided, rather than relegating this to a post-decision matter.
 - We broadly support proposals for protection and growth policies, subject to some amendments, including ensuring allocations are reasonable and enshrine affordable housing provision within them.
 - We support the provision of design codes in principle, but it will be important that these are set reasonably to avoid them being used to frustrate development.
 - We may support centrally imposed housing targets if they can meet specific conditions which would avoid slowing down the planning system.
 - We welcome the reduction in the production time for local plans as long as it is properly resourced.
 - We believe that five year housing land supply tests need to be retained as a trigger for the 'Presumption in favour of sustainable development' until it can be demonstrated that the new system will not lead to delays in bringing forward sufficient permissions to meet housing need.

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4. We recognise the government's ambition to increase homeownership however truly sustainable communities must cater for all income levels and changes must be implemented in a way that continues to deliver affordable housing of all tenures.
 5. We look forward to seeing the proposals evolve and are keen to be involved in helping to develop them.

3. PILLAR ONE – PLANNING FOR DEVELOPMENT

Q1. What three words do you associate most with the planning system in England?

1. Slow, uncertain and politicised.

Q2. Do you get involved with planning decisions in your local area?

2. As one of the largest developers in London and the South East, we have significant involvement in the planning process. We are aiming to deliver a significant number of properties per year and are constantly interacting with the planning system. In addition, our 65,000 residents are affected by planning applications in their area.
3. We already deliver high quality public engagement on our estate renewal schemes. We operate a public charter which sets our principles for engaging with customers, including co-creation of schemes with customers and the wider community in order to deliver 'buy-in' from the local community.

Q3. 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?

4. This question appears to be aimed at local residents, but our view is that there needs to be a range of channels for communicating planning information. We fully support the digitalisation of the planning system, but this should not mean that traditional ways of communicating this information are forgotten. We have a large proportion of residents with limited access to, or familiarity with, digital forms of communication, including older residents and those unable to afford access to the internet, and any transition should take this into account.
5. We recommend that the working party that draws up the detail of these proposals has a clear and established brief to make sure that the transitional period for these proposals is long enough to enable all residents to adjust to the changes and that traditional forms of communication are not completely abandoned. This should be noted in the formal consultation response produced by MHCLG.

Q4. What are your top three priorities for planning in your local area?

6. Our three priorities are as follows:
 1. Delivering truly affordable homes which can drive economic regeneration.
 2. Speeding up the system, but not at the expense of flexibility.
 3. Bringing forward more high quality and sustainable places and high-quality homes.

Q5. Do you agree that Local Plans should be simplified in line with our proposals?

7. The proposal involves identifying land in three different categories (renewal, growth and protected areas). The first two zones reflect the existing system of site allocations and settlement boundaries and we have no significant objection to this proposal.
8. Notwithstanding this, as stressed later in this document, it will be important to ensure that the parameters for development within the growth areas are realistic and do not frustrate development coming forward.

Protection Areas

9. We consider that protection areas should not apply within settlement boundaries. For example, the proposals suggest including conservation areas and gardens as sites that are protected. In reality, these locations are not and should not be 'protected' from development, there are numerous conservation areas in London where very significant densification occurs (South Shoreditch Conservation Area being one of the most extreme illustrations). Even the most sensitive conservation areas are not preserved in a pickle jar and some level of development is acceptable in these locations.
10. Furthermore, the proposal to include gardens as protected areas could also frustrate the proposals for gentle densification to deliver more homes. The Croydon Suburban Design Guide Supplementary Planning Document is a successful example of how densification of suburban areas can be unlocked by design guidance; however, this is reliant on the redevelopment of homes with generous gardens in to flatted schemes.
11. From our review, these proposals would appear to be at odds with the wider objectives of the White Paper. Our view is that it is not the intention of the White Paper to frustrate development and that suitable schemes should continue to come forward in these locations. It would therefore be misleading to give these locations the same level as protection as the Green Belt and Areas of Outstanding Natural Beauty (AONB) and it could potentially give rise to unrealistic expectations in the plan making process for local residents.

Recommendations

1. Conservation areas are not included as protected areas, but simply provided as a separate designation on the local plan that is automatically excluded from renewal areas (to avoid being developed via prior approval).
2. Existing gardens are not designated as protected areas and a development management policy is provided in the local plan to reflect the approach within that local authority.

Renewal Areas

12. The renewal areas proposal is an interesting approach to increasing density within towns and cities and we are broadly supportive of the principle set out in the White Paper, but we do have some concerns about the operation of this policy in practice.
13. The design codes which the prior approval will be assessed against will need to be based on sensible, but optimistic assumptions. If a design code is written with lower density parameters this could frustrate development in these locations. The White Paper states that planning applications could be submitted which depart from these proposals, but this would be on an exceptional basis. If a design code is written which provides unrealistically low assumptions about development, then it could be used as a reason for refusing the application submitted outside of the prior approval process. The design code might also solidify development expectations in terms of height and density in the minds of the local community and lead to greater opposition to otherwise acceptable schemes.
14. We also consider that it will be important to make sure that design codes consider viability and do not add very significant additional construction costs which would make schemes unattractive to bring forward. This should form part of the examination process for new design codes.

Recommendation

1. Design codes should be subject to testing to make sure that they are not unrealistic in terms of density and viability.

Q6. Do you agree with our proposals for streamlining the development management content of Local Plans, and setting out general development management policies nationally?

15. We welcome the simplification and streamlining of the number of development management policies, but the reality may be that widescale 'nationalisation' of development management policies may not be possible. We consider that there will be many examples where locally distinctive policies are required. We have already noted the approach to existing gardens above, other examples could include affordable housing tenure and mix, general housing mix, parking standards, sustainability standards, employment land protection (depending on availability in the local authority), approach to houses in multiple occupation, to name just a few, as well as the numerous localised single issue policies that occur on an ad hoc basis.

Recommendation

1. We would recommend a starting point of the policy being 'nationalised' with the Local Plan only including a bespoke policy which departs from the national standard where the local authority can justify this at the local plan examination.

Q7(a). Do you agree with our proposals to replace existing legal and policy tests for Local Plans with a consolidated test of “sustainable development”, which would include consideration of environmental impact?

16. We consider that the proposed local plan process simplification may make the examination stage more streamlined, but any sustainable development test will still need a range of elements to make it understandable and sufficiently wide in scope. For example, we would expect the principles upon which sites are allocated to be based on sustainability tests such as public transport availability and the range of local services and facilities. In addition, there would need to be less obvious ‘sustainability’ considerations such as flood risk, heritage impact and landscape impact considered.
17. A good example of an existing tool which utilises the existing sustainability tests within the NPPF and uses them for assessing sites is the Sustainable Development Scorecard (<https://www.thescorecard.org.uk/>). We consider it may be necessary to utilise this or something similar to ensure that certain elements of sustainability are not overlooked within the local plan examination process.
18. We consider that the housing targets and densities of growth allocations will need to be adequately reviewed and it would appear unlikely that these could be covered by a sustainable development test and further guidance on this element of the assessment will be required.
19. In addition, we also consider the current test of soundness, which requires local plans to be based on ‘proportionate evidence’, will need to remain in some form. This will ensure that proposals to meet housing need within a local authority are realistic and not rushed through or focused in one place to avoid more controversial sites. We also consider that any revised tests will need to cover deliverability on growth.
20. In terms of sustainability appraisals, this option needs more detail before we can comment properly, but we do not object to the principle of simplification. We presume that separate legal tests will need to remain as part of the examination process and this would cover whatever replacement legislation on sustainable environmental assessment (SEA) is brought forward.

Recommendations

1. All elements of sustainable development will need to be assessed under any test. Existing examples of sustainable development assessments could assist with this.
2. The revised tests will need to include an assessment on deliverability, appropriate evidence and the parameters of any allocation.
3. Further detail on the replacement for the SEA process will be required, but we assume some element of legal tests would need to remain.

Q7(b). How could strategic, cross-boundary issues be best planned for in the absence of a formal Duty to Cooperate?

21. If central government does impose constraint-led housing targets on local authorities, it would make sense for decisions over cross-boundary need to take place at the same level (see our later comments on this approach). However, it is extremely important that detailed consultation with relevant stakeholders takes place. Clearly local planning authorities (LPAs) will need to be involved, but so will Local Enterprise Partnerships and Highways England to make sure that discussions regarding cross-boundary infrastructure are properly embedded into the process.
22. In terms of housing need we recommend retaining the existing approach to Housing Market Areas as the starting point for discussions.

Q8(a). Do you agree that a standard method for establishing housing requirements (that takes into account constraints) should be introduced?

23. We remain neutral on this proposal at this time. We can see the benefit of removing the most controversial and time-consuming element of the local plan process. We also welcome proposals that put affordability at the centre of a national housing growth strategy. However, we believe that the government should consider the impact on local democracy and the potential for legal challenge.
24. We recall the impact of unpopular centrally imposed housing targets from Regional Strategies and how this slowed down the process. We consider there is significant potential for a number of local authorities with ambitious housing targets to seek to legally challenge housing requirements set using a standard method. This could cause significant delays and lead to a two speed planning system for many years, where some local authorities lag behind others in adopting the new system as they seek to challenge housing targets and delay bringing forward their local plan.
25. We believe that any central housing target should provide opportunities for new infrastructure-led growth to be delivered in line with the approach we identified in answer Question 7b (ensuring widespread consultation with a number of bodies).
26. The proposal also includes the proposed removal of the five year housing land supply test as a means of triggering the presumption of sustainable development. The justification is that as the new style local plan system will be delivering enough housing nationally and permissions are granted automatically then the five year housing land supply test becomes redundant. We consider that this faith is misplaced and the proposal could have profound effects on housing delivery. As set out above, there is likely to be delays in bringing forward the new system and even when this occurs there will be many examples when development is not coming forward as envisaged in the development plan.

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27. The White Paper proposes retaining the housing delivery test as the ‘check and balance’ to the local plan system to make sure that sufficient development is coming forward. We consider that the five year housing land supply is essentially the ‘canary in the mine’ on delivery and waiting for housing delivery test to apply can often be too late and lead to a significant delay in terms of correcting issues of undersupply.
28. Removal of the five-year housing land supply test would significantly reduce local scrutiny on the government’s key aim of ensuring sufficient housing was brought forward. This is particularly important given the ‘lighter touch’ approach for local plan examinations and the potential for ineffective plans to be adopted within a new and unfamiliar planning policy landscape.
29. Finally, the proposal includes reducing the plan period down from fifteen years to ten years. We do not think this is effective to deal with issues such as green belt release which should have a longer term horizon and to allow an effective environment for investment decisions over infrastructure and housing to be made. Alongside this is a suggestion that local plans should be reviewed every five years or face sanctions. We are not convinced that even within the new streamlined local plan system that local authorities will have the resources to deliver on this. We therefore consider that the timeframe for local plans should remain at 15 years to avoid delays in review causing limited plan coverage.

Recommendations

1. We would support centrally imposed housing targets on the following conditions:
 - a. Local authorities should remain a central consultee within the process which should involve significant negotiation between all parties before a housing target is imposed.
 - b. Local communities should still have an opportunity to comment on proposed housing targets.
 - c. Central Government should properly fund the process of internal review of constraints and required infrastructure when setting housing targets. This may require establishing new departments within MHCLG who specifically deal with this issue.
 - d. An approach for minimising legal challenge should be set out when further detail on the approach is released.
2. Addressing affordability should remain at the centre of this process, including how many affordable homes and of what type should be a key assessment within the process (when setting the housing target).

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3. Consultation over the provision of infrastructure should be enshrined as a central part of the housing target setting process.
 4. The five year housing land supply test should remain, at least for the start of the reforms to make sure that delivery is not affected by the imposition of a completely new system.
 5. The fifteen year plan period should remain for local plans.

Q8(b). Do you agree that affordability and the extent of existing urban areas are appropriate indicators of the quantity of development to be accommodated?

30. Yes, we are supportive of a system that puts affordability at the centre of the process. However, we are currently seeing significant changes in terms of demand as a reaction to Covid-19 with lots of people relocating from towns and cities. If this trend continues then the methodology would become dated very quickly. The Government should consider an early review of the appropriateness of the methodology as more information on the reaction to the Covid-19 pandemic becomes available.
31. We would also highlight the need to understand the type of housing (affordable tenure and mix) that would be brought forward within the new housing target. It will not be sufficient to target the least affordable areas, there must be an understanding of what types of homes would be brought forward.

Recommendations

1. The Government will need to review the methodology in light of the changes in housing demand arising from the Covid-19 pandemic.
2. The quantity of affordable housing to be delivered as part of local authority's housing target should be a central consideration when they are set.

Q9(a). Do you agree that there should be automatic outline permission for areas for substantial development (Growth areas) with faster routes for detailed consent?

32. Yes, subject to the parameters for the growth areas being appropriately tested at Examination and set in consultation with developers as previously highlighted. We recommend that the figures used within local plans are either the minimum expectation or a range that will make sure developers can take advantage of the proposals as planned. If the figure is set too low, developers will need to submit full applications, defeating the original purpose of the reform.
33. Currently, the figures used within local plans are set at such low densities that it is rare to see an application that delivers in line with them. There will need to be a step change in the way in which allocations are set with greater focus on densities, which are viable to ensure that this policy is

successful. We also recommend that the level of affordable housing and tenure split is set out in these policies to make sure that there is certainty over this benefit in the decision making process.

34. There is also a reference to the use of masterplans to guide development in growth areas. There should be specific guidance requiring consultation with developers and local communities. This will help get buy-in from all stakeholders and enable initial feasibility work for a specific site to feed into the process.

Recommendations

1. Figures used within allocations should be minimums or ranges based on suitably ambitious densities.
2. Masterplans should take account of previous feasibility site specific work to inform their final content and include an element of flexibility to ensure that development is not frustrated by onerous restrictions.

Q9(b). Do you agree with our proposals above for the consent arrangements for Renewal and Protected areas?

35. We are not opposed to the use of design codes to speed up the process, but we have concerns about whether they may be too restrictive if they are ineffectively written. While there will be an opportunity to submit an application if you do not conform with the design code, the local community's expectation will be that something in line with the design code will be acceptable and if this is too pessimistic in terms of density, then it will make it harder to deliver development. Notably the White Paper talks about schemes which are delivered as applications being the exception, rather than the rule. This suggests an expectation that they will nearly always be used and thus design codes must be based on reasonable assumptions for development or they will simply repeatedly frustrate development.
36. As previously suggested in our response (Question 5), design codes should be tested to ensure they are appropriate, this should include viability testing so that the cumulative impact of the policy requirement is not such that it frustrates development and delivery of the local plan.
37. There are also some exceptions that will need to be thought through. For example, the redevelopment of existing estates, which is one of our key aims, would require explicit guidance within national policy to explain that it would not be covered by local design codes. This would be necessary by virtue of the unique nature of these developments and the significant level of densification that occurs. Doing so would control expectations that the design code would not be followed on such schemes.

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38. We believe a design code should embrace some level of flexibility as repetitive uniform design may not be the best outcome for communities. We consider that there is beauty in difference and repeating the same scheme again and again will not deliver that.
39. In addition, we consider that Design Codes and the role of the new Head of Design within a local authority should be specifically guided to take a custodian approach, rather than seek to push a preferred architectural style. If subjective tastes are allowed to unduly influence policy and design codes then this will create a legacy of a specific style to appear within a local area with limited variety.
40. Finally, we consider that more detail is required for the 'faster consent' process related to both the development within the growth and renewal areas.

41. *Recommendations*

1. Design codes should be tested at examination to ensure they are reasonable in density and viability terms and thus do not frustrate development.
2. National policy on design codes should discourage their use on estate regeneration schemes, due to their unique nature.
3. Flexibility within design codes should be encouraged.
4. Design policy should be viewed from the perspective of custodianship, rather than imposing a specific preferred style.
5. More detail on the faster consent proposals is required.

Q9(c). Do you think there is a case for allowing new settlements to be brought forward under the Nationally Significant Infrastructure Projects regime?

42. Yes, but there needs to be a way to make sure that new settlements can form part of the local plan process to ensure that there is consideration of how new towns fit with the wider strategy of the local authority to meet housing need.
43. We have concerns that the evidence gathering required for incorporating a new settlement within a new style local plan will be compromised by the new timeframes for production. The White Paper proposes two years to examination which does not seem to be sufficient to determine whether such a development would be appropriate and then produce evidence to support this.
44. We consider that it may be preferable for central government to provide policy guidance and support to provide the necessary support for these schemes. This centrally supported proposal

(which would be locally led), could then form a starting point for new style local plans. This would fit with our objectives of speeding up the planning process, while still retaining flexibility.

Recommendations

1. Exploration of a locally led, but centrally supported policy on new settlements may be required.

Q10. Do you agree with our proposals to make decision-making faster and more certain?

45. We support the digitisation of the planning process which is well overdue. This should help to speed up the planning system by front loading consultation into the local plan stage rather than being spread over two phases at present (local plan and planning application). However, the proposals represent a step change in terms of consultation and require sufficient funding to be successfully implemented and avoid delays in the process.
46. While we would support the return of application fees for wildly inappropriate decisions, we have concerns about further eroding the resources of local authorities. The proposal could be counter-productive if local authorities do not have sufficient resources to carry out their functions and this is caused by application fees having to be returned. We are already aware of numerous local authorities who are under resourced and this had a negative impact on performance. We are opposed to reforms that further slow the planning system contrary to our stated aims for reforming the planning system (set out in the Introduction).
47. There could also be further unintended consequences from requiring local authorities to return applications fees where an application is not determined within the statutory timeframe. For example, the council refusing applications as soon as the determination period ended without giving proper consideration to the application. This would add further delays to the system as the application was resubmitted.
48. We support reform of the pre-application process, which is currently ungoverned and causes significant delays. For example, we have experience of waiting almost 12 months for pre-application response in more than one instance for one of our large regeneration projects – this has caused significant delays to enable us to be able to submit an application and bring the site forward. It is also not unusual for one round of pre-application discussions to take six months (from submission to provision of a note) if the local authority is resource constrained. It is essential for pre-application responses to be a quick and transparent process – especially when PPAs are in place.
49. We would welcome more delegation of applications once the principle of development is established and speedier validation. Both of which would help to speed up the planning process.

Recommendations

1. Other ways of improving performance without eroding resources should be explored.
2. There should be more focus on improving the pre-application process.

Q11. Do you agree with our proposals for accessible, web-based Local Plans?

50. Yes, we welcome more visually based local plans and the use of data sourcing standards within new documents which should help speed up the planning process. We do not consider it may be appropriate to fully standardise local plans in every instance and flexibility may be required at times. As suggested in the White Paper a broad template should be provided, but this should be seen as a starting point, rather than straitjacket for structure and content.

Q12. Do you agree with our proposals for a 30 month statutory timescale for the production of Local Plans?

51. We would be delighted if every local plan could be adopted within 30 months, but we have concerns about whether this is feasible and the impact on bringing forward new settlements. We are concerned that there may not be sufficient funding to deliver the objectives of speeding up the planning system to meet these targets. For example, where a local authority is bringing forward a new settlement. More flexibility may be needed by designing a centrally supporting component for identifying new settlements.
52. We also consider that more clarity is required on what 'sanctions' are proposed, as this will be key to the success of the proposals. Our experience is that where local authorities are genuinely concerned about plan making powers being transferred elsewhere this has acted as a significant motivating factor. However, the fact that the government has not used this tool means that local authorities may be sceptical about whether they ever will. We suggest that clear parameters for the use of sanctions should be set out in national policy so local authorities are clear about the point at which these sanctions would apply to them.
53. We do not consider that simply stating that the presumption of sustainable development should apply will be acceptable, as this would not apply to areas within green belt and these are often the areas with the biggest delays in local plan production – for example both York and St Albans have not produced a plan in over 25 years. This also highlights the need to retain the five year housing land supply check on housing delivery, until it can be demonstrated that the new sanctions work effectively.

Recommendations

1. Make sure local plan production is sufficiently funded to deliver on the 30 month target.
2. Set out clearly how the approach to sanctions would work.

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3. Retain the five-year housing land supply test.

Q13(a). Do you agree that Neighbourhood Plans should be retained in the reformed planning system?

54. Yes, we consider that neighbourhood plans should be retained within the new system in some form, but a clear proposal for how they would fit within the new process is required. At the current time, they appear to be an awkward fit within the new process. We have concerns over direct neighbourhood forum control over design codes as the densities and assumptions within them could be set out in a way which frustrates development on viability grounds. It will be important that neighbourhood forums are involved in design codes and can assist in their development, but we consider that the local authority should retain a central role and the final version be examined.

Q13(b). How can the neighbourhood planning process be developed to meet our objectives, such as in the use of digital tools and reflecting community preferences about design?

55. In our view, there would need to be some sort of transition phase. As stated above, complete 'takeover' of the design code element could be used to frustrate appropriate development and would need to be tested at examination.

Q14. Do you agree there should be a stronger emphasis on the build out of developments? And if so, what further measures would you support?

56. As noted in the consultation document and the Letwin Review, the key issue is one of variety of outlets to help increase deliverability. While there are no proposals to comment on here, we do not object to the principle. As a housing association which delivers a range of products, we have significant purchasing power which can drive higher build out rates. We consider that one of the key issues that needs to be tackled (in order to achieve the objective of speeding up the planning system) is for planning conditions to be discharged quickly and effectively. Currently it takes around 12 to 18 months to discharge pre-commencement conditions, even for a medium sized scheme.
57. Another significant source of delay which is not addressed here is the drafting and signing of Section 106 agreement. We consider that these need to remain in principle, but would need to be speeded up in terms of delivery timescales.

4. PILLAR TWO – PLANNING FOR BEAUTIFUL AND SUSTAINABLE PLACES

Q15. 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]

1. We deliver high quality, tenure blind development, but we are aware of other examples of poorer quality development being permitted.

Q16. 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]

2. We consider that delivering energy efficient new schemes is a priority. Not only does this help to reduce carbon emissions, but it also helps reduce energy bills for residents.

Q17. Do you agree with our proposals for improving the production and use of design guides and codes?

3. We support the expanded use of design codes in principle, but as established in earlier responses (and from our own experiences – see below), they will need to be managed effectively to ensure that they do not frustrate development, compromise scheme viability and deliver more quality homes, in line with our objectives.
4. We believe that design codes should bring general market housing up the current standards for affordable housing a rather than vice-versa.
5. We also consider that there will need to be significant involvement of developers and landowners to make sure that design codes are fit for purpose. Our recommendations for implementation (summarised from previous sections) are set out below.

Design Code – Case Study

We have direct experience of working with a design code on a significant residential development on a greenfield site in the South Midlands. The design code from the outline permission added a further £2m build cost to the scheme and a lengthy determination period where the local authority sought strict adherence with the design code with limited potential for flexibility. This led to a significant number of resubmissions and lengthened the determination period for the reserved matters application to 18 months in total.'

Recommendations

1. Design codes should be tested at examination to make sure they are reasonable in density and viability terms and thus do not frustrate development.
2. Developers and residents should be involved in the design code production process. Developers will often have produced their own plans for sites which can feed into the process.
3. The production of new design codes will need to be costed and funded appropriately.
4. Design codes can provide clear guidance on often overlooked issues in planning policy, such as parking and rear garden dimensions.
5. Flexibility within design codes should be encouraged, to avoid a series of uniform/identikit developments.
6. Establish affordable housing standards as the minimum within design codes for all types of housing.
7. Design policy should be viewed from the perspective of custodianship, rather than imposing a specific preferred style.
8. More detail on the faster consent proposals is required.

Q18. 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?

6. Yes, we would support these proposals, if properly resourced, and in the case of the national body, independent. We would also repeat our earlier comments about the need for the Head of Design to act as a custodian for design in the area, rather than seek to dictate a particular architectural style for the local authority. As highlighted in our objectives for the planning system, we want to deliver high quality places and this may require flexibility to ensure that the beauty from different designs can remain to an extent.

Q19. Do you agree with our proposal to consider how design might be given greater emphasis in the strategic objectives for Homes England?

7. There are no specific proposals here, but we do not object to the proposal subject to Homes England seeking to make sure that the additional design quality is factored into the viability of sites.

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8. There is a potential for duplication on design guidance here, as Homes England would need to consider the role of the design code when setting a design brief for a site.

Q20. Do you agree with our proposals for implementing a fast-track for beauty?

9. We welcome the ideas in principle, subject to adoption of our recommendations set out below.

Recommendations

1. Design codes should be tested at examination to make sure they are reasonable in density and viability terms and thus do not frustrate development.
2. Developers and residents should be involved in the design code production process. Developers will often have produced their own plans for sites which can feed into the process.
3. The production of new design codes will need to be costed and funded appropriately.
4. Design codes can provide clear guidance on often overlooked issues in planning policy, such as parking and rear garden dimensions.
5. Flexibility within design codes should be encouraged, to avoid a series of uniform/identikit developments.
6. Design policy should be viewed from the perspective of custodianship, rather than imposing a specific preferred style.
7. More detail on the faster consent proposals is required.

5. PILLAR THREE – PLANNING FOR INFRASTRUCTURE AND CONNECTED PLACES

Q21. 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]

1. More affordable housing, in line with our main objective for reform of the planning system.

Q22(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?

2. We strongly object to the principle of affordable housing be subsumed into a new overarching Infrastructure Levy. While we are supportive of proposals which will speed up the planning system, we consider that there is significant risk that this would result in a reduction in the amount of affordable housing delivered compared to the existing system.
3. The proposals do not contain any provisions for the safeguarding of affordable housing within a development. We have already seen the impact that Community Infrastructure Levy has on the provision of affordable housing, squeezing it out along with other site-specific infrastructure requirements.
4. We are concerned that the proposals to put everything in the same pot without clear and robust proposals to deliver sufficient affordable housing, will inevitably reduce the level of affordable housing to be provided on the site and its importance within the decision making process. While the current system has its own drawbacks, it does provide upfront certainty over the expectations for affordable housing to be provided on site. Developers need to sign up to delivering this level of affordable housing or they risk having their scheme refused.
5. Under the new system, the level of affordable housing would not be fixed until prior to completion and well after the decision had been made. This breaks the link between assessing the level of affordable housing and the appropriateness of the scheme in principle, which is a key consideration for local authorities and members of the local community at decision making stage. The assessment over whether a scheme will deliver an appropriate mix of tenures on site has been a central element of the upfront decision-making process via pre-application discussions and these proposals would remove this.
6. We consider this to be unacceptable, as relegating the decision over what level and type of affordable housing is appropriate to essentially a planning condition does not allow this key factor

to be properly considered against other elements of a proposal. The reduced scrutiny on the level of affordable housing brought about by these proposals would make it easier to reduce the overall quantum provided, as its central position in the decision making process is part of what ensures its delivery. Over time, relegating affordable housing to a post-decision matter could lead to an 'out of site, out of mind' attitude which would further diminish its importance and at best lead to commuted sums in lieu of onsite affordable housing delivery which goes against our ambition to create vibrant, mixed and balanced communities.

7. We also consider that this proposal would remove the opportunity to utilise affordable housing as a way to drive delivery of certain schemes – particularly where a developer can benefit from an improved cash flow where build payments for the affordable housing units can be cash flowed across the duration of the build period. Furthermore, as an affordable housing provider, we have many examples of where the provision of additional affordable housing has been a key consideration in making a scheme acceptable in planning terms. By relegating this element to a post-decision matter, such opportunities will be lost.

8. In addition to this basic principle, we also have a number of other concerns with the proposals as set out below:
 - There needs to be significant thought on how the timescales involved with establishing development value and the potential impact on legal agreements with landowners will be affected, as the level of contributions will not be known until just before completion. If this is not clearly established the system could essentially come to a standstill.
 - The proposals will need to consider non-mainstream forms of development such as estate renewal, where the existing site value is low, but the end development value high. In these instances, the increase in value is what allows the affordable housing to be provided on site in such significant numbers. These schemes are essentially a special case in terms of viability which could not be adequately accommodated within the proposed system.
 - The existing scheme offers an affordable housing exemption on CIL, but this would be lost under the current provision. This would act as a disincentive to bring forward additional levels of affordable housing - particularly onsite delivery.
 - 100% affordable housing schemes would lose their current complete exemption from CIL, which is a significant incentive to bring these sites forward and makes land easier to purchase for this purpose and would fundamentally compromise the viability of these developments without the need for substantial grant subsidy. This exemption should be retained within any new system.

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- The system would propose backloading the level of affordable housing which would reduce certainty and speed in the system as it would be extremely difficult to design a scheme when there was no final decision over what amount, tenure, type and mix of affordable housing to be provided. This would then make it very difficult to accommodate the different standards for affordable housing units within the final design without reworking the entire proposals (which would almost be built at this point).
 - There is a significant danger that developers might increase their build costs in order to reduce the level of affordable housing provided on a site. This would allow developers to bring forward exclusive developments which minimise affordable housing on site.

In addition to the above points it is unclear how non-financial planning contributions, such as travel plans would be enshrined. Presumably Section 106 agreement would need to remain for these elements.

Recommendations

1. Affordable housing delivery should not be merged with CIL.
2. We recommend that the level, type and tenure mix of affordable housing should be established up front in allocations or through pre-applications discussion to avoid delays in delivering units and optimising affordable housing provision.
3. The level of affordable housing should also be set out in the allocation to ensure certainty for all parties.

Q22(b). Should the Infrastructure Levy rates be set nationally at a single rate, set nationally at an area-specific rate, or set locally?

9. We do not support the current proposals as drafted, but for a separate infrastructure levy we would recommend a locally set levy to reflect the different viability issues in each area.

Q22(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?

10. We do not support the proposals to merge Section 106 and Community Infrastructure Levy as we do not believe that the same level of affordable housing can be retained under the new proposals. We consider that any proposals should be looking to increase the level of affordable housing provided given the significant nationwide need. It is for this reason that we do not support the proposed reforms set out here.
11. As an additional point, while expressing support for retaining the same level of contributions and quantum of affordable housing is a laudable aim, delivering this is fraught with difficulties. Each

scheme provides different levels of contributions and on a year-to-year basis local authorities deliver wildly varying amounts. We are not convinced that there could be effective monitoring to ensure this outcome.

Q22(d). Should we allow local authorities to borrow against the Infrastructure Levy, to support infrastructure delivery in their area?

12. We have no objection in principle as long as this is not a substitute for government funding. There needs to be understanding of the mechanism used to deliver the infrastructure and the connection to the land. There would also need to be some further thought over whether, where the council borrowed to deliver future infrastructure for a site, this then amounted to a charge on the land for when development was brought forward which may impair the ability to attract development finance.
13. In instances where there was forward funding of infrastructure, there would need to be some consideration of what happens when the schemes relied upon to 'pay back' the infrastructure were not implemented or the development value drops.

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

14. Yes, we would support this approach as infrastructure can seek to enable higher levels of housing delivery.

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?

15. We do not consider that the drafted proposals can protect the current level of affordable housing and affordable housing delivery needs to retained under a separate delivery mechanism.
16. As an additional point, while we are generally positive, we are highly sceptical that it would be possible to monitor this effectively. Each scheme provides different levels of contributions and on a year-to-year basis local authorities deliver huge difference in affordable housing. In addition, the level of affordable housing varies based on the housing target and strategy (e.g. mostly brownfield or greenfield land). We are not convinced that there could be effective monitoring to ensure this outcome was being achieved as it would effectively be comparing apples with oranges.

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?

17. We do not support the proposals to secure proposals as in-kind payments as the merging of affordable housing and CIL would reduce the overall level of affordable housing provided on site.

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18. As an affordable housing provider with an aspiration to build the majority of our development programme as affordable homes, competing for land- particularly in our London and Home Counties region- remains challenging. Securing in-kind affordable housing contributions should only be considered if there is strong justification – on planning or housing grounds in exceptional circumstances. Furthermore, any in-kind contributions in lieu of onsite delivery must be set at a level that is equivalent to the cost of providing affordable housing onsite, to ensure there is adequate funding available to assist affordable housing providers to compete for land on the open market so to deliver true ‘additionality’, i.e. affordable housing that would not be delivered otherwise.

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

19. As stated previously, we do not support the principle of the reforms set out in the proposal and do not support any kind of in-kind delivery.

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?

20. We do not support in-kind delivery as part of the merging of Section 106 and CIL and consider that the best way to support affordable housing quality would be to retain separation between the two delivery systems.

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

21. We are not convinced that the current approach is too restrictive. The key is making sure that the money gets spent locally for the required infrastructure to support and/or to mitigate against the impact of a new development and enshrining a link between the levy payment and how much the infrastructure costs and when it must be spent

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

22. We do not support the proposals to merge Section 106 and CIL as we do not consider that the same level of affordable housing can be protected.