

Dear Sirs,

Planning For the Future White Paper. Pendle Borough Council Response

Introduction and Summary

This representation has been prepared by the Borough of Pendle Council (the Council) in response to the Planning for the Future White Paper (the White Paper) and sets out the Council's views on the Government's proposals for a new planning system.

The White Paper is responsive to the Government's proposal to place Planning Sector at the heart of the country's recovery plans to the COVID-19 outbreak which has deeply (and will continue) affected the country both socially and economically. Proposed reforms are intended to provide for a planning system which is simpler, fairer, provides for high quality and sustainable development, and makes the most of technology to ensure the system is fit for and responsive to the needs of 21st Century society.

The Council believes that the criticism levelled by the Government to the Planning sector, and more specifically Local Plan making, for failing to provide for a sufficient supply of housing land is unfair. The requirement for 300,000 dwellings per year is centrally defined and is not expressly set out in national planning policy. It is the Government's imposed methodology for defining housing needs that fails to achieve the delivery of this figure. The implementation of planning permissions is subject to a lag period before first completions are recorded and so it is not surprising that this annual figure has not yet been achieved. The delivery of housing itself is particularly open to prevailing market conditions and economic circumstances much of which is beyond the control of both local planning authorities and developers.

The delivery of new homes is not assisted by top down tinkering of national planning policy and guidance, which can serve to significantly delay the plan making process. Changes made by successive Governments to the methodology, evidence base requirements, and monitoring for determining housing needs and requirements translate into significant delays for plan making authorities resulting in increased costs and resourcing pressures. The instability of the plan making process can significantly change what local planning authorities are trying to plan for, meaning that a sound plan in response to one set of information, can be unsound following the publication of the next. This causes significant delay and uncertainty, frustrating for all involved, especially local communities.

Extensive cuts made to local government funding has significantly curtailed the resourcing capabilities of local planning authorities to prepare Local Plans (with at the same time extended requirements for more

detailed and complex evidence) and determine planning applications. Greater pressure is experienced as a result of extended permitted development rights which require prior approval from local authorities at reduced income and within shorter timescales for decisions.

Locally, the Council plays a significant role in promoting and securing sustainable growth. The Core Strategy, adopted in December 2015, provides for a positively prepared housing requirement to support economic investment in the Borough (at 298 dwellings per year), and far exceeds the minimum level of housing need defined under either the current or proposed standardised methodology (at 141 and 213 dwellings per year respectively).

The deliverability of development in Pendle is however significantly affected by low viability. This means that for many of the national volume builders, large parts of the Borough do not provide a commercially attractive place to develop new homes despite the availability of land for such development. The Council has taken steps to support housing delivery in the Borough. This has included entering into a public private enterprise partnership PEARL2 to secure the regeneration of otherwise unviable sites. The Council has also recently secured funding to help regenerate Nelson Town Centre.

The Council understands that some of the Government's proposed reforms will help address some of the issues identified above. Proposals for a simplified Local Plan, with development management policies centralised and tests of soundness change, will significantly reduce the amount of time and evidence required for plan preparation. A simpler, rules based approach to the designation of land would provide for greater clarity and certainty, and aid the efficiency of decision making, securing the delivery of sustainable development within a shorter timescale. The Council agrees that securing high quality design and sustainable should form a core part of any new planning system, and in principle supports proposals for design codes, a chief design officer, and pattern books where these can be defined and implemented locally. The Council also supports a move towards a more digitally based system for both plan making and decision taking which will help bring the planning system in the 21st Century and ease the publication of plans and documents and assist in the consultation process.

The Council believes that to implement proposed changes, it is right for the Government to start again requiring new primary legislation to replace existing an array of legislation and regulations. This move in itself will remove much of the complexity and uncertainty which is faced by the current system.

However to ensure the successful implementation of proposals, the Government must ensure that adequate resources are made available up front to fund the efficient adoption of the new system. This is important given the significant overhaul in technology and skill brought by the proposed reforms. The Council therefore request that further information is provided which sets out how the new system will be implemented by local planning authorities.

The Government must be realistic in its objectives and expectations for a new planning system. A new system will take time to bed in, with its users unfamiliar with its requirements and processes, and the new system reliant on new and untested technology. As such penalties for failure to meet specific, somewhat arbitrary timescales should only be implemented where justified.

The Council has a number of significant concerns with proposals as outlined:

- The categorisation of land into just three types 'growth', 'renewal' and 'protection' is too simplistic;
- The proposal for a centrally imposed and binding Housing Requirement based on a central assessment of capacity and opportunity ignores local variation in housing needs, characteristics and growth aspirations;
- The reduced opportunity for consultation during the plan preparation process and determination of planning application;
- The removal of any scope for Development Management Policy within Local Plans meaning Local Plans are less responsive and effective in dealing with local issues;



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- The short timescale for Local Plan preparation inclusive of examination reducing opportunity for consultation, and plan to penalise local planning authorities where timescales are not met;
- The move towards automation for the determination of planning applications resulting in reduced opportunity for scrutiny, transparency and professional judgement from the process; and
- The proposal for a centrally defined Infrastructure Levy based on development value for all types of development, which includes the delivery of affordable housing.

Proposed alternatives for each of the above are set out the main section of our representations below. The Council do not believe that a one size fits all approach will provide for an effective planning system at a local level. This is evident by flaws experienced with the standard method. Such an approach does not reflect the variation in needs and issues which is exhibited at a local level that are critical in securing sustainable development.

The reforms, if anything, represent a centralisation of the planning system, with planning powers taken from local planning authorities and redirected to the Government. The proposed system raises significant questions about how democratic, transparent and fair the planning system will be for communities in the future; an apparent contradiction to the Localism agenda.

Clearly the White Paper is lacking detail which might address some of the concerns outlined above, and there is both scope and time for these to be addressed. The Council believes that, before moving forward with proposed reforms, a proper and thorough discussion is needed with the wider industry and members of the public to ensure that any reformed planning system can work effectively, efficiently, and fairly for all parties. Reforms should not be rushed through, with care and attention to make sure that they are implementable and secure the forms of development that are both needed and wanted. The Council is prepared to be a part of and would welcome a role in any such discussion.

Pillar One: Planning For Development

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

The Council agrees that should the planning system be reformed, those reforms should seek to simplify Local Plans to make them more accessible and meaningful to the communities they serve. A land use based approach that is visual, much shortened, and easily understood may provide an effective way of securing this.

Nevertheless, the proposal to categorise land into just three types may be over simplistic and could create confusion as to how policies are applied and the weight that is attributed to them especially where there is any cross over (for example where a protected area impacts a growth area). It may also lead to uncertainty as to what scale of development might come forward in a particular area over the plan period making the achievement of requirements to meet housing needs in full and provision of necessary and timely delivery of supporting infrastructure challenging.

In response, the Council suggests that proposed 'growth' and 'renewal' categories should be broken down further to at least the following subcategories:

- Areas of Allocation: Sites with specified uses or mix of uses, capacity and design parameters, and infrastructure requirements. Sites could be of any scale from new settlements to small allocated sites. These areas could benefit from the equivalent of outline planning consent and will be developed over the plan period in pursuit of development requirements. Interventions may be made where these sites do not come forward within expected timescales.
- Areas of Opportunity or Change: Areas identified with potential for redevelopment, regeneration, or growth in association with a range of uses, in support of the delivery of strategic infrastructure, or to



develop a specific industry/sector within which planning controls would be relaxed. These areas may be developed at any time over the plan period.

- Developed Areas: Areas within settlement boundaries where, subject to localised constraints and compatibility with existing neighbouring uses and users, proposals for redevelopment will be acceptable in principle subject to specific design matters.
- Areas of Limited Development: Areas within/at rural settlements where small scale growth in support of local housing or economic development needs may be permitted subject to compliance with wider policy. This may include areas which are otherwise protected (i.e. areas of open countryside, or suitable locations within Areas of Outstanding Natural Beauty).

The likely designations included within the 'Protection' category vary significantly in terms of their type, purpose, weight, and impact on new development and activity. As such, the Council believes that it is important that these areas should not be 'lumped' together under one category but rather are distinguishable from one another along with any relevant associated guidance or development management policy so this can be clearly visible to the applicant, communities, and decision maker. This will aid the transparency of decision making, and reduce the potential for confusion and delay due to the submission of insufficient information and/or applications for inappropriate forms of development.

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

The Council agree that Local Plans would benefit from being streamlined through the relocation of duplicated development management policies into a centralised source. This would make Local Plans more user friendly and would cut the complexity of policy for communities and applicants.

The Council is however resistant to the removal altogether of scope for development management type policies to be included within Local Plans where they are responsive to unique District level or sub-District level issues, or respond to local variation of national matters, which would not otherwise be adequately captured or represented by national development management policy or design based guidance.

To ensure that local development management policy is kept to a minimum, national planning policy could advise that duplication of national development management policy is to be avoided, and local development management policies will need to be justified to be considered at examination.

Q7a) 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?

The four tests of soundness provided through the NPPF are far from perfect in their current form, leading to long and complex examinations. The tests of soundness can be inconsistently applied and do not guarantee desired outcomes. It is therefore agreed that reform is necessary in this area.

The Council do not object in principle to the replacement of these tests of soundness with one single "sustainability test". It is however difficult at this stage to conclude on the merits and suitability of this test without sight of more detailed proposals as to what this test might be.

Based on available information, the Council is unclear how the proposed sustainability test might capture all critical issues necessary to the successful implementation of the Local Plan. For example it is unclear how community involvement and consultation would be measured through the examination of a Local Plan under a single sustainability test. This is despite the important role that consultation has under the proposed system particularly early on in the process, and given the potential reduced scope for further consultation later within the planning application process.

In addition, it is unclear how the measure of deliverability would fit into a sustainable development test when the confirmation of deliverability isn't necessarily a matter of sustainability. The Council is concerned



that proposals to slim down deliverability measures is counterproductive and contradictory to wider proposals of reform. It is clear when reading the wider White Paper that securing the deliverability of growth areas will be key to respond to the expectation in policy for the minimum requirements of the standard method in full. It will also be necessary to ensure sufficient and consistent delivery to meet the Housing Delivery Test, and avoid speculatively applications which may be submitted where this test is failed.

Q7b) How could strategic, cross-boundary issues be best planned for in the absence of a formal Duty to Cooperate?

Cross-boundary working could remain part of the test of soundness for consideration through the examination applying the proposed sustainability test. Through this test local authorities, and relevant neighbours and statutory consultees as relevant would have to show how the Local Plan have been prepared in its allocation of specific land use to ensure that broader strategic issues have been considered and responded to in order for a Local Plan to be considered sustainable. This could be through the preparation of a Statement of Common Ground or Memorandum of Understanding.

Q8a) Do you agree that a standard method for establishing housing requirements (that takes into account constraints) should be introduced?

Q8b) Do you agree that affordability and the extent of existing urban areas are appropriate indicators of the quantity of development to be accommodated?

The Council do not believe that there is a single solution for defining housing needs that can be implemented centrally which will be responsive to housing need across England. The housing needs of the country are diverse with different priorities and needs in each part of the country. In Pendle the principle housing issue is access to quality stock rather than overall matters of supply. This is very much different to a south eastern authority where significant demand is causing exponential increases in unaffordability. An answer for one area may be unsuitable and constraining for another. This is evident with the current standard method and its resulting north south divide in derived housing need.

There is need for some flexibility to enable local authorities to exceed any centrally defined housing requirement in response to localised housing or economic issues, or for a housing requirement to reduce where an active cross boundary agreement is in place. Government policy should clearly set out the circumstances for over and under provision against the centrally defined figure. The case for both should be subject to scrutiny by way of public consultation and independent examination assessed under the guise of the sustainable development test.

The Council is concerned by proposals for the Government to define local housing requirements based on a centralised assessment of constraints and opportunities. The Council do not consider that the Government is appropriately placed to set out how the housing requirement responds to housing needs taking into account constraints or the potential for development. The proposed approach removes the benefit and importance of local knowledge and expertise of the local planning authorities, the community and other locally based contributors, which are critical in determined how development could come forward to meet identified need and when.

In Pendle, constraints to development which might be missed at a national level include the topography of the area, limited infrastructure, and the low viability of urban areas. Thus whilst Pendle forms part of an urban area (along with Burnley) equivalent in population to Reading, and has opportunity for brownfield development within, this does not automatically translate into justification for an inflated housing requirement because a higher level of growth would have limited prospect of being delivered.

Were the Government to continue with proposals for housing needs and requirements to be defined and imposed centrally, the Council, would as a minimum request that locally produced assessments of housing and employment land availability, brownfield land registers, viability assessments, together with recent



records of delivery are taken into account when determining this distribution. This information should signal to the Government whether any defined requirement would be realistic.

Councils should have the right to challenge a housing requirement where it has been centrally defined and where there is little prospect of this being secured over the plan period.

Q9a) Do you agree that there should be automatic outline permission for areas for substantial development with faster routes for detailed consent?

The Council believes that such a position may be possible depending on:

- The degree of scrutiny and evidence supporting the identified 'growth' area supporting the Local Plan;
- The extent of support in the local community as shown at the Local Plan stage;
- The extent of time elapsed since the preparation and examination of the Local Plan and change which would affect a particular 'growth' area and its impacts on wider areas;
- The compliance of proposals with the Local Plan.

At this stage details remain vague about how the front loaded examination of Local Plans will be undertaken. There will however be the need for a step change in the detail of information provided on a site specific level in order to justify the equivalent to granting outline planning consent for a site at adoption stage of the Local Plan. Whom would prepare and be responsible for the costs of this evidence remains unclear, notwithstanding as to how this evidence based gathering process would work alongside a reduced timescale for plan preparation.

It will also be important for there to be illustrated genuine community involvement and buy in for proposals in 'growth areas'. The level of community involvement and scrutiny will need to be increased in comparison to that currently undertaken in plan preparation. It will be important to consult once preferred sites and proposals for those sites have been identified to provide affected people with the opportunity to comment and have their views heard and responded to before any examination takes place. There may be further opportunity under proposals for public involvement during the masterplan/design guidance process and detailed design stage following adoption of the Local Plan however the principle of developing an area for a particular use and quantum of development by this time would have already been established.

It may be that circumstances or evidence alters between adoption and a site being developed. Information requirements for planning applications concerning detailed matters should help address this issue. Furthermore, the requirement to review a Local Plan every 5 years provides opportunity to refresh any evidence, guidance or sites where necessary.

Consistency with the Local Plan is a key issue for a rules based approach, and this will not be known until the detailed planning stage, and may not be known until the fullness of time if a 'growth' area is brought forward in phases. This adds some uncertainty to the process as local authorities and communities are unlikely to know the degree and timescales at which a defined growth area is to come forward until applications they are submitted (or pre-application engagement takes place). Ongoing dialog between the Council, statutory providers, site promoters, and the community will be critical in ensuring the sustainable delivery of any growth area. In addition, there should be a requirement of reserved matters applications to demonstrate compliance with policy requirements and its overall 'fit' within the growth area to ensure that proposals assist and do not prejudice wider delivery.

Q9b) Do you agree with our proposals above for the consent arrangements for renewal and protected areas?

The Council is in agreement with the proposals for consent arrangements for renewal and protected areas. The Council is supportive of the position that a full planning application will be required for proposals affecting protected areas or for proposal in growth and renewal areas which are inconsistent with the Local Plan. The Council also supports the position that proposals which conflict with the Local Plan will be required to pass a higher test than schemes submitted in accordance with policy.

Q9c) Do you think there is a case for allowing new settlements to be brought forward under the Nationally Significant Infrastructure Projects regime?

The Council do not consider that the NSIP process is appropriate for new settlements, even where they support or are interrelated with nationally significant infrastructure projects. It is important that new settlements have the support and buy-in of the local community and local authorities given their significant permanent impact across a potentially large area. The approval of a new settlement through a process other than the Local Plan would significantly undermine transparency and democracy, the plan preparation process, and any finding of soundness, and would necessitate the immediate review of the Local Plan notwithstanding how long it may have been adopted for.

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

The Council is supportive of proposals to enhance the efficiency and effectiveness of decision making through the use of digital technology, and shortened and simplified planning applications provided that sufficient detail is provided to enable the effects and impacts of a proposal to be sufficiently understood and scrutinised by the Council and local community. The Government must make sure that any system put in place to secure this is proven, reliable, simple to use, and sufficiently adaptable to provide a suitable platform to determine any type of planning application which is received. Sufficient resources and guidance must be made available for use by all users of the planning system to ensure minimal disruption.

The Council considers that there is still a place for traditional forms of consultation, such as neighbour consultation notifications (by letter) and site notices. Such forms of consultation provide for increased local awareness of proposals, and ensure that any affected individuals, users, or businesses have the opportunity to comment on proposals.

The Government must ensure that proposals to streamline and increase the efficiency of decision making does not lead to undermine the robustness and skill of this process (does not become too automated in its approach). The new system must be flexible in its application to allow extended periods for determination where required by specific circumstances (owing to complexity for example), and ensure that a sufficient period of time is provided for high quality developments sought by the White Paper to be secured. The Council does not disagree with proposals to expand the scheme of delegation where this is appropriate, however the right for schemes to be called in to committees where there is has been a sufficient level of public interest must remain to secure an accountable and transparent process.

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

The Council is supportive of proposals for digitalised based Local Plans provided that the Government provides sufficient resource and funding to enable the transition to a digitalised system to be made. Timescales for plan preparation should also be conscious of the need to effectively start afresh with the new system. This will take time if it is to be implemented successfully. The shift to an entirely digitalised system for the purpose of plan preparation and the operation of the planning system is opposed by the Council. Face to face forms of consultation such as presentations, workshops, and exhibition events where there is opportunity to discuss and view physically proposals remain an important opportunity to gain feedback and evolve proposals. The removal of these opportunities would significantly devalue this process.



Furthermore it also must be recognised that there remain members in the community whom do not have access to or an unable to use digital technology (out of choice, cultural belief, lack of understanding, or physical/mental disability/condition). Whilst these sections of the community are, overtime, becoming fewer in number, they nevertheless remain part of the community and as such must be given the means and opportunity to be heard and to navigate the planning system if necessary. The removal of any choice or opportunity for a hard copy format of the Local Plan isolates these sections of the community reducing the transparency and democracy of the planning process.

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

The Council agrees that Local Plans produced under the current planning system take too long to prepare, is resource intensive, and produces a complex layering of guidance for development to follow and respond to. Proposals to change and streamline the scope and stages of preparation are therefore welcomed.

The Council is however concerned that the proposed timetable is too tightly defined, risking the quality and robustness of plan making, the achievement of sustainable development, and the provision of a fair, accessible, and transparent process.

A period should be allowed for before the start of the process to prepare for the initial call for evidence in which local planning authorities set the parameters and baseline position for the Local Plan. This will benefit greatly the value of the 6-month call for evidence and sites represented by the first stage of the new system, ensuring that sites and data provided is relevant which will assist the efficiency of Stage 2.

Under the proposed system, any area included within a location identified for 'growth' would benefit from the equivalent of outline planning permission at adoption of the Local Plan. As a result, a robust understanding of the constraints and opportunities influencing the capacity, uses, and opportunity such an area would provide to enable sustainable development would need to be collated upfront. Where information is complex, requires a series of surveys, or third party involvement, a period longer than 12 months identified for Stage 2 may be required, the requirement and satisfaction of each may be beyond the control of the local planning authority.

A significant concern for the Council under the revised proposals for plan making is the apparent reduced opportunity for consultation giving communities the chance to shape the Local Plan. Following Stage 1, no further opportunity is formally given within the process for consultation, feedback and review within the plan making process, with Stage 3 simply being a consultation where comments provided are fed back to the Inspector.

The Council considers that there must be a further meaningful opportunity given for the community, wider industry, and statutory consultees have a say on draft proposals once the evidence gather process has been completed through Stage 2 i.e. to comment on whether proposals provide sustainable development. With comments then taken into account in formulating the final version of the Local Plan.

Whilst it is acknowledged that the Government's proposals for Stage 2 do not explicitly exclude the opportunity for further consultation to take place, the short timescale outlined in Stage 2 makes this impossible, especially if comments are to have any bearing on proposals outlined within the Local Plan. Stage 2 should be expanded to enable opportunity for this, in order to ensure that Local Plan making remains accountable to local communities.

It is inappropriate to define and limit the extent for the examination of the Local Plan. The purpose of the examination should be to robustly test the Local Plan to consider whether the test of soundness is met. This process should take as long as reasonably necessary to consider proposals of a Local Plan, its justification and supporting evidence, to hear any objections, and to make amendments to the Local Plan if needed. The proposed timescale for this to occur within just 9 months prejudices and reduces the quality of this process.



The Council also disagrees with proposals for a penalty to be placed on a local authority where Local Plans are not prepared in accordance with statutory timescales. The delay in plan preparation process may be due to a whole host of reasons. For example under the proposed system, the delay might be that there has been insufficient interest to promote the required amount of development through 'growth' areas, or a proposed 'growth' area is proven as not deliverable or suitable through further evidence. Further delays may be caused by resourcing or technical issues. The Government should show some flexibility in addressing delayed Plans, with penalties only imposed where delay is unreasonable due to non-planning reasons.

In all, the Council considers that a reasonable period for plan preparation from conception to submission would be no more than 30 months. This would allow an initial 3-month preparation period, 6-month call for evidence, 12 months for collating the draft plan, 6 months for further consultation and enabling amendments to be made to the plan in response, and a further 3 month period for flexibility to account for slippage in the timetable.

The Government should be mindful that it is extremely likely that Local Plan preparation for the initial series of plans prepared in alignment to the new system will take longer than proposed timescales as the new system establishes. The reforms outlined will be new to all in the development industry and it will take time for the profession to adjust. The reforms are also reliant on the implementation of technology which at present is not tested to the scale and reliance as outlined, so there is the possibility of difficulties being experienced. Aims to secure the adoption of Local Plans by the end of this Parliament, as outlined in the White Paper, are not realistic.

The benefit of the proposed reformed system of plan making should mean that the review or preparation of a new Local Plan would be a fairly straightforward and efficient process, and it may be expected that second or third generation plans prepared under the new system would be put together in a much shorter period than 30 months.

Q13a) Do you agree that Neighbourhood Plans should be retained in the reformed planning system?

The future role for Neighbourhood Plans within the reformed planning system is uncertain. Neighbourhood Plans typically contain development management type policy to influence and guide development within the designated area over the plan period, much of which will instead be set out in National Planning Policy under the Government's proposals.

It is unclear how Neighbourhood Plans would sit alongside the reformed Local Plan system with the designation of land under three categories, with Local Plans taking the lead on this based on a strategic overview of submitted evidence and available opportunities. To avoid conflict, prejudice or the need for review with the strategic approach of the Local Plan (one of the existing basic conditions), Neighbourhood Plans would need to follow the adoption of a Local Plan. However it is unclear what the value or need of this would be especially if proposed locations of 'growth' 'renewal' and 'protection' had already been concluded as 'sound' through the examination of the Local Plan.

Instead a more appropriate role for Neighbourhood Plans or community led planning, is through the preparation of localised design guides covering their area, or specific sites located within their area, which are produced in partnership with the Council and developers. Such documents would act as a local steer by the community as to how they wish development to come forward in their areas over the plan period in terms of external appearance, materials, scale, form, layout, landscaping etc. A design focussed approach will need design expertise involvement which could involve the local authority Chief Planner in design and placemaking or an appointed third party.

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?



Delivery is an important aspect of development and allocated growth within the development plan. Ensuring Local Plans provide for a range of sites in a variety of locations, with sites developed through multiple outlets which assist significantly in securing this. Realism at adoption, and firm evidence of deliverability will also help secure a Local Plan which helps maintain completion levels over a plan period. Requiring this information at a masterplanning/design code stage (which it is understood would most likely follow the adoption of a Local Plan) would be too late in the process to confirm strong build out rates. This should be provided prior to adoption and tested at examination to strengthen the basis of the Local Plan. The masterplan/design code should focus on more specific matters such as how a site might be built out.

Pillar Two: Planning for Beautiful and Sustainable Places

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

Yes, design codes can fulfil an important role in securing high quality design and place making, especially where development is sensitively located, includes large scale development, and/or development that is promoted through phases and/or a number of outlets. The underpinning of this process with a nationally adopted design code could help ensure that development is not delayed or prevented from coming forward where there is no local design code or the local design code is still emerging. The national design code however will need to have regard and be flexible to local variations and sensitivities in design which makes them distinctive.

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?

Yes, the Council considers that there is merit for both. A national body would provide useful assistance to authorities whilst the new system is in its infancy. It would help provide a resource of expertise and skills, and act as a conduit for the exchange of ideas and best practice as the new system takes shape over the years following its adoption.

A Chief Officer would provide for internal expertise, and the opportunity for the Council to standardise and enhance its response to design issues, ensuring that a consistent and high level of design quality can be achieved across the Borough. Such an officer could become the key contact for the Council in this regard for both internal and external consultation and advice (much like a conservation officer today).

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

The Council has concerns with proposals for fast-track for beauty. Beautiful design is perceptive, it can vary from place to place, and change over time. It is therefore unclear how a standardised approach can best capture this and or who it benefits. Good design in London may not represent good design in Pendle. A standardised national approach to good design may achieve the opposite by resulting in nationally prescribed monotonous forms of development. It is therefore important that any national model for this employs a sufficient amount of variation which is tailored to respond to local materials, appearance, and scale, and does not employ a one size fits all approach.

A more appropriate approach would be a national model which illustrates forms of development which would benefit from permitted development and forms of development requiring prior approval. National level design guidance should refer only to the overall aspects of design to be taken to account similar to that currently set out within the National Design Guide. More precise aspects of design, such as the formation of pattern books should be devolved to local planning authorities and communities with the input of developers, statutory consultees, and the national body for design.

Pillar Three: Planning for Infrastructure and Connected Places



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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?

The Council is in agreement that the current system for planning contributions and obligations is unnecessarily complex, time-consuming, and costly for parties to engage in. A more transparent and straightforward process may therefore be more effective in securing necessary infrastructure and benefits from a development than the current approach.

The Council is concerned by proposals for the Levy to be charged at a fixed proportion of development value above a certain threshold. The Council worries that in areas like Pendle, where viability is marginal across much of the Borough, a minimum threshold defined nationally that is set too high would mean that it fails to support the delivery of necessary infrastructure. It is unclear, what will occur in areas affected by this, and how local authorities will be expected to meet nationally imposed development requirements, even if development options are not sustainable or viable. The converse of this would be if the threshold was set too low risking the possibility that development does not take place owing to insufficient scope for profit. In response, there should be flexibility within the proposed Infrastructure Levy to set both the rate and threshold locally depending on patterns of viability experienced at a sub-district level. This would provide a rate which is more responsive to local conditions and will help balance the Levy with development viability.

Beyond this and to support the redeveloped of urban areas, there should be made available a source of funding which helps to secure the regeneration of urban areas where viability does not currently exist. These sites provide significant potential in providing a major source of land for both housing and economic growth, which will benefit existing communities and help protect the natural environment. Such funding should be made available where the housing requirement of an authority has been inflated owing to urban capacity.

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

Land values varying significantly not just at a local authority level but also by settlement and ward and by the status and condition of the land i.e. greenfield, brownfield, cleared brownfield, contaminated. To ensure that any levy is responsive to this local variation and changes to this overtime, the Levy should be defined locally.

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?

The rate at which the Levy is charged must strike the appropriate balance between securing the delivery of viable development important to securing development targets, securing regeneration, and delivering economic growth, and the infrastructure which is necessary to make it sustainable. At present, policy seeks to maintain a 15-20% profit margin for developers in order to provide sufficient financial incentive in order to develop a site. An increase in the level of value which is captured through the Levy will most likely be passed on by the developer to the landowner. Again, the level of this passed on increase, must still provide a sufficient increase in land value to incentivise the disposal of the land for development by the landowner as opposed to it being maintained in its current use (its benchmark value). It will be important to engage with landowners and developers in defining any Levy to understand where the limit lays for establishing the Levy.

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

It is difficult to say by what other means infrastructure required to secure the sustainable delivery of identified growth areas would be delivered within the necessary timescale. The alternative of waiting until the levy is collected would result in a period where sites are not served sufficiently placing pressure on existing services. Some infrastructure, such as waste water capacity and roads may be needed upfront to serve the development. Schools and other facilities can take a few years to come forward given the need to construct new buildings and associated infrastructure.

The Council's worry about the proposed system is a scenario where the authority borrows against a predicted level of income from the levy taken from allocated development, but the actual amount of monies provided at occupation turns out to be lower. This is all the more realistic owing to the time lag that there may be from adoption of the Local Plan (when infrastructure will be costed and timescales set), delivery of infrastructure, and eventual delivery, development and occupation. A whole host of factors, some out of the control of both the Council and developers, may affect the overall amount of levy taken from the site contrasted to the cost of supporting infrastructure. The Council understands this could go either way, and the levy collected at another site may be higher than anticipated, but there is no guarantee that this will occur.

The Council doesn't want to get into a position where it is facing significant and mounting debts because infrastructure requirements forward funded and delivered by the authority on the behalf of developers is not met by levy receipts. There must be some way for the Council to claw back this cost if the levy receipt causes public finances to fall, or the proposed approach is not sustainable for local government to adopt, especially in the face of falling income from other sources.

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

It is unclear to the Council how the Government expects the authority to monitor and collect monies from such forms of developments given the absence of the need to apply for planning consent and limited resources to monitor. Such receipts are likely to be relatively small overall given the minor impact a change of use of an existing building is likely to have on infrastructure and services. The Council consider that the cost of implementation would likely exceed the benefit of additional income to the Levy.

The Council also believe that the implementation of the Levy to this type and scale of development would much reduce any incentive for such development to take place. This, in the Council's view, undermines the purpose of Permitted Development Rights which is to provide flexibility to existing residents and businesses to undertake relatively minor works to existing property supporting the local economy. A Levy should not therefore be imposed on this scale of development and should only be applied to major forms of development.

Q24 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?

Q24 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?

Q24 d) If an in-kind delivery approach is taken, are there additional steps that would need to be taken to support affordable housing quality?

The expected impact of the Government's proposed reform for securing affordable housing delivery is a likely reduction in the amount of affordable homes delivered in the Borough. This is because, where given a choice, developers are likely to favour the provision of infrastructure which may be beneficial for site marketing and property value.

Poor viability within Pendle means that the Council struggles to secure affordable housing through market led provision under the current system. This varies within the Borough with viability in rural areas generally improved in comparison to urban areas, however it is the urban areas which are more sustainable, are



expected to grow, and where much of the affordable housing need is located. As a result much of the affordable housing secured in urban areas is through 100% affordable housing schemes often supported by third party funding. The Council is both unclear and concerned as to how such schemes might come forward under proposals for the Infrastructure Levy.

A reduction in affordable housing completions will have adverse social effects, forcing more households into insecure forms of tenure, overcrowded households, and increasing the potential for homelessness. This could significant increase existing social problems experienced in the Borough, placing further pressure on Council services. As such the Council is opposed to affordable housing being secured through the Levy. Affordable housing is best secured as a policy requirement for sites identified as 'growth areas' (as a percentage of all new completions at a site). This would then be secured as part of the planning consent for the site at the detailed stage. Further guidance will also be needed as to how affordable housing is secured at 'renewal' areas and to support and secure affordable housing through 100% schemes.

Q25. Should local authorities have fewer restrictions over how they spend the Infrastructure Levy?
Q25 a) If yes, should an affordable housing 'ring-fence' be developed?

The Council would welcome the scope to spend the Levy with flexibility. This will enable the Council to plan and prioritise the delivery of key infrastructure required to support 'growth' areas as required. This approach will help minimise delay in bringing development sites forward. It will also help avoid unsustainable pressure on existing services, facilities and infrastructure. It will be important to ensure that spend on the Levy is monitored and recorded to prevent overspend and ensure that monies secured from developments are spent most effectively for the benefit of both existing and new residents.

The Council disagrees with proposals for Affordable Housing to form part of the Levy and instead this should be sought as part of policy requirements for areas defined for 'growth' through the Local Plan.

Concluding Comments

The Council welcomes the opportunity to comment on the Government's proposals for reform to the planning system as set out in the *Planning for the Future* White Paper. It is hoped that the concerns raised in this representation are acknowledged and addressed before reforms are taken forward and adopted in legislation. The Council would welcome the opportunity to engage further with the Government in this regard.

Yours sincerely,

Pendle Borough Council



Liberata