
Elmbridge Borough Council - Response to Government White Paper: Planning for the Future (August 2020)

Pillar One – Planning for development

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

No comment.

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

No comment.

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?

The Council would welcome a more accessible system that allows our residents and communities greater opportunity to meaningfully engage in the planning process. There will however, be some sections of the community that will continue to rely on more traditional methods of engagement. These sections must not be left behind and must be equally able to participate in the planning process.

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

The top three priorities of Elmbridge Borough Council and its residents are:

Addressing and responding to our changing climate – the Council will promote cleaner and greener living, in order to conserve and enhance biodiversity, and allow us to respond and adapt to climate change whilst creating a sustainable environment to live, work and spend our leisure time. Through the planning process, the Council will increase resilience to climate change, including flood risk, to reduce greenhouse gas emissions and promote water efficiency and the use of renewable and low carbon energy.

Protecting the Green Belt and character of Elmbridge – the Council is seeking to deliver sustainable development that builds on the success of our existing communities and proactively addresses our development needs. Through the planning process, the Council will deliver well-designed places and spaces across the borough reflecting the uniqueness of our communities and which lead to a better quality of life of existing residents and future generations. The Green Belt which is highly valued and helps shape our communities will be protected. Our established network of green and blue spaces will also be protected, and enhancements sought with improvements to

biodiversity, connectivity and access, allowing for greater sustainable movement across the borough and supporting our residents to lead healthier lives.

Supporting a prosperous economy – the Council is seeking to provide the environment and opportunities to foster a prosperous economy where industries and businesses can thrive. Through the planning process, the Council will support our town and village centres and manage their transition to centres that act as a community-hub. The facilitation of a prosperous economy will include improved infrastructure and housing. It is the Council's aim to deliver the right infrastructure in the right places and at the right time.

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

The Council agrees that the Local Plan process should be simplified however, it strongly disagrees with the Government's proposals in terms of how this should be done, and the proposed changes presented under proposal 1.

At the strategic level the proposal of establishing growth areas, renewal areas and areas that are protected appears to be clear and the principle would generally be supported. However, it is considered that there is a distinct lack of detail and interconnection between these three land types as well as other proposal set out in the White Paper, the consultation on the proposed changes to the current planning system, and current national policy.

It is clear from the proposal that the majority of new development should be directed towards growth areas. As set out in the proposal, these are areas that are suitable to accommodate substantial development (to be later defined in policy) with examples being given such as new settlements, urban extensions, industrial sites and urban regeneration sites. Within the context of Elmbridge, there are limited industrial sites and urban regeneration areas that have not already been redeveloped or the opportunities for future housing-led regeneration already identified. Furthermore, any new settlement or urban extension would be within the Green Belt; an area identified in the proposals for protection. However, should the Government seek to set binding housing targets, unless constraints to land supply within the existing urban areas (as set out above) are taken into consideration alongside environmental and / or cultural characteristics when set, there is concern that these housing targets are highly unlikely to be met if, as set out in the proposal, Green Belt is to be 'protected'.

Focusing on the Green Belt, the Council considers that national policy over the last few years has been unclear and unhelpful when preparing Local Plans. The National Planning Policy Framework (NPPF) makes clear that the Government attaches 'great importance' to the protection of the Green Belt and yet, sets out the process in which local authorities should amend the boundary of the Green Belt within their area should exceptional circumstances be demonstrated. Within areas where land is constrained and there is significant shortfall in the supply of deliverable and developable housing sites within the existing settlement areas, the exceptional circumstances as set out in the NPPF appear to be met all too easily.

In addition, the majority of Local Plans have failed at Examination in Public recently as they are unable to meet their identified housing need with, a number being encouraged to release / increase the release of land from the Green Belt.

As part of the proposed new planning system the Council seeks clarification as to the level of 'protection' areas such as Green Belt will be afforded and asks the Government to ensure that their policy is seen through as intended at the Local Plan examination process.

In regard to areas that are protected, the Council, whilst acknowledging that the areas listed under the environmental / cultural category is not exhaustive, is concerned as to the lack of reference to biodiversity and protected habitats and how these will be safeguarded and indeed enhanced. Throughout the White Paper there is a lack of reference / acknowledgement of these areas and the vital role they play in not only protecting the natural environment and wildlife but how they shape the places we live and work and help our residents and communities to live happier and healthy lives.

In regard to alternative approaches set out in the White Paper, in terms of the spatial context of the borough and the likelihood of where development will be directed, the Council would support the limit of automatic planning permission in principle to land identified for substantial development in Local Plans (growth areas) and not extended to renewal areas.

The Council supports the move towards an inter-active web-based Local Plan. There is concern however, as to the associated cost of new software and how the Government will support local authorities through the transition of using web-based technology to increase participating in the process and the accessibility of the end product.

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 agrees that most development management policies often repeat national guidance and are generic in neighbouring local authority areas with a similar geographical context and issues to address. It is therefore agreed that some of these issues could be covered within nationally set development management policies.

However, it will remain vital that local authorities can include their own development management policies that are required to cover particular issues or where targets that go above the national minimum e.g. affordability issues in Elmbridge and the collection of affordable housing contributions on small sites.

The Council would therefore support the alternative option of limiting the scope of development management policies to be included in the Local Plan to those which exceptional circumstances necessitate a locally-defined approach.

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?

The Council supports the proposals to stream-line the Local Plan process and introduce a single statutory “sustainable development test” including the removal of the Duty to Cooperate test. Whilst it remains important that a Local Plan is based on a robust and credible evidence base and the strategy is justified, it is considered that these principles can be captured under a single sustainable development test.

The proposed removal of the Duty to Cooperate test would be particularly welcomed. On the basis of the Examination in Public process, it would appear that too many plans are failing the test as it is being applied by some Inspectors as a duty to agree and an automatic reason for stopping many plans from proceeding to the hearing session when housing need has not been met.

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

It is not perceived by the Council that by removing the test, all the engagement and cross-boundary working with neighbouring authorities and other statutory consultees to understand and address cross-boundary issues will cease. This process will continue and will be essential to the preparation of a suitable / sustainable strategy which could easily be explored and discussed as part of the examination process. Co-operation could be documented as part of the consultation statement / Statement of Common Grounds to be agreed.

The Council's main concern is not necessarily the work that sits behind cross-boundary working but that local authorities are failing to discharge the duty simply where need is not being met. This raises concerns that housing numbers produced under the Standard Method are, by some Inspectors, already being considered as 'binding' and when not being met, an otherwise compliant and sound strategy for an area is being dismissed.

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

No.

In the Council's response to the Government's Changes to the current planning system consultation, several concerns are raised as to the proposed amendments to the Standard Method. These concerns have not been repeated in response to this question but should still be taken into consideration as part of the Council's response to this proposal.

Focusing on the specific elements of this proposal: applying constraints and making the housing requirement figures binding, the Council strongly objects to this proposal.

The current process for setting a housing target through the Local Plan process is well established. Using the Standard Method, it is for a Local Authority to understand its level of need then seek opportunity to meet this taking into consideration constraints and, where need cannot be met within the local authority area, working with neighbouring authorities through the Duty to Cooperate to see if any surplus need can be met elsewhere.

Each Local Authority is undertaking this process as part of their Local Plan preparation in accordance with the NPPF. It is therefore unclear why the Government is intervening in this process by undertaking an assessment of constraints at a national-level and establishing a binding housing requirement for each Local Authority. Taking this approach, the Government is re-introducing a top-down housing target and reverting back to an approach which the Coalition Government abolished in July 2010.

The Council is making great strides in producing a Local Plan which seeks to balance the need for new homes within the Borough and the constraints to development including environmental constraints, the Green Belt and infrastructure provision. It is considered that the assessment of constraints is best identified at a local level where these can be appropriately measured, assessed and applied. An assessment at the national-level is not considered sufficiently robust to take into account limitations to land supply at a local-scale.

Furthermore, as proposed, the Council is concerned that the consideration of constraints to development will not reduce housing requirement figures but simply mean that they must be met within a smaller area of land through the measures set out in para. 2.26 (greater densification, infilling and brownfield land redevelopment etc.) This will have a significant adverse impact on Elmbridge's character and environment.

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?

No.

In the Council's response to the Government's Changes to the current planning system consultation, several concerns are raised as to the proposed amendments to the Standard Method and the over-emphasis on the issue of affordability. These concerns have not been repeated in response to this question but should still be taken into consideration as part of the Council's response to this proposal.

Focusing on the proposal to take into consideration the extent of the existing urban areas as an appropriate indicator of the quantity of development to be accommodated, the Council raises serious concerns as to this approach. As raised in the Council's response to Q8(a) it is not accepted that any element of establishing a housing figure should be undertaken at a national-level. Rather, it should be for Local Authorities to measure, assess and apply factors such as land availability within their existing urban areas when considering how much of their housing need can be met through the preparation of their Local Plan.

The Council is concerned that at such a high-level, important local considerations cannot be considered. For example, in comparison to some other Local Authorities, Elmbridge is considered as 'urban' with only 57% of land designated as Green Belt. However, developable sites within the urban areas are extremely limited. For example, over 90% of sites within the Borough are small-site providing less than 10 dwellings. There are also limited industrial sites and urban regeneration areas that have not already been redeveloped or the opportunities for future housing-led regeneration already identified.

An assessment of existing urban areas at a national-level is likely to be an over-simplistic assessment of land mass / percentage that would overlook vital characteristics of an urban areas and likely equate to a binding housing figure that cannot be met or would drastically alter the character of the urban areas. To meet binding housing targets, Local Authorities would need to cram in new developments to the detriment of existing and future residents and would be a stark contrast to the Government's vision of beautifully designed sustainable developments and communities.

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

No.

As set out in the Council's response to Question 5, due to the nature of the borough, there are unlikely to be many growth areas where significant amounts of development are delivered. Nevertheless, the Council does have concerns with this proposal.

Whilst it is acknowledged that within growth areas the principle of development would have already been considered through the Local Plan process, it is believed that there are some instances whereby this will need to be re-examined. Although many of the Government's proposals seek to speed up the delivery of new homes, it must be acknowledged that there is often a time delay between areas being identified through the Local Plan and schemes being delivered. This can be for multiple reasons including the need for key infrastructure to be provided in advance of a development; the planned-phasing of developments through the Local Plan; or the development industry not immediately bringing forward development so to avoid flooding the market and reducing values.

The Council is concerned that during any significant delay between the plan-making and decision-making process, there could be material changes in circumstances which need to be considered and could warrant the need to re-examine the principle of the development at the latter stage. For example, material changes in national and / or local planning policy, the submission of new evidence as to the suitability of the site for development including the scale as set out in the Local Plan, or key infrastructure not being delivered that is required to negate the impact of the development.

How this proposal fits with the process of local democracy is also a concern. The Government's proposal is that the engagement of residents and communities is principally undertaken during the preparation of the Local Plan. However, it is commonly acknowledged that residents engage more readily with the planning process when a proposal is on their door-step and they are clearly able to see and understand the details of the development scheme. Whilst the Government's proposals seek to make plan-making more accessible / interactive, the Council is concerned that even with more creative and engaging ideas, the notion of strategic planning and discussing concepts and principles as opposed to detailed schemes will still not be as far-reaching as envisaged.

Furthermore, linking back to the point regarding the time delay between the preparation of a Local Plan and the delivery of a development through the development management process, there will be movement within the local population. If a Local Plan is already adopted, new residents to the area will have no / very little opportunity to have a say in, influence and have their voice heard in the process. Local Councillors may also find it increasingly difficult to represent their constituents if the issues they are raising with the principle of the development are not open to discussion.

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

No.

The Council agrees that in renewal areas there will be a general presumption in favour of sustainable development however, does have concern as to consent being automatically granted and certain applications being fast-tracked.

As set out in the response to Q9(a) the Council has concerns as to how these proposals fits with the process of local democracy. The issue being that the majority of residents and communities become engaged with the planning process when detailed schemes are being promoted as part of a planning application. By front-loading the system, many issues which our residents and communities are concerned with, will not be open for discussion / debate at the planning application stage. The concern is this will disenfranchise our residents and communities from the planning system and will have the opposite effect that the Government is hoping for. All key issues will effectively be a 'done deal'; a notion which Local Authorities have taken significant efforts to counteract and show how planning and an efficient and effective service can be a benefit to our residents and communities.

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

No comment. This issue is not considered relevant to Elmbridge given its spatial context.

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

The Council agrees with some elements of this proposal. For example, the Council would support the standardisation of technical supporting information that covers the necessary details to determine the application without the often associated multiple, lengthy and often complex documents submitted. The Council would also generally support the removal of physical consultation (letters, adverts in the paper and site notices) for greater use of emails, the website and social media. This proposal is appealing and would lead to longer-term efficiency savings for Local Authorities. However, the Council is concerned as to the associated cost of the digitisation of our services, how this is to be funded and whether there would be issues with excluding sections of our community from the process if they are not as technologically advanced.

The Council is also concerned as to the proposal for some applications to have been deemed granted if not determined in time. For a start, it is not clear what type / scale of proposals the Government is referring to. Regardless, there is concern that this proposal could lead to developments being permitted by default which are entirely inappropriate and would have no associated conditions. In addition, delays in the determination of an application are not always due to the Local Authority. For example, there are frequently delays in the response from Statutory Consultees as applicants have not submitted the correct / sufficient information for them to consider the application. However, this point is only established once the application has been registered / validated and the time-frame for determining the application has commenced.

Refunding an application fee if not determined on-time is also of concern. As set out above, delays in determining a planning application is not always due to the Local Authority and yet it will be the authority that is financially penalised. This could have significant consequences for Planning Services to run efficiently and effectively especially if applied to larger schemes that have Planning Performance Agreements in place.

It is also considered inappropriate for application fees to be refunded if an application that has been refused by a committee, is overturned on appeal. As part of the decision-making process and in order to protect local-democracy, it is important that Councillors are free from financial considerations in order that they can represent the views of organisations and individual, in relation to relevant planning matters.

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

The Council agrees with the overall proposal to make accessible, web-based Local Plans however, it objects to the proposal that they should be purely web-based. Whilst there is an increase in the use of on-line technology there are sections of our communities that rely on traditional methods of presenting information e.g. the publication of hard copies. Those that rely on such methods must not be left behind and must equally be able to participate in the Local Plan process.

The Council is also concerned that if Local Plans are to become standardised following a set format / style, that a local authorities' ability to respond to its particularly challenges / issues is restricted. There is also concern as to how democratic a Local Plan may appear if it follows such a rigorously set script.

The Council would also raise concern as to the potential cost to local authorities of accessing new software. It is not clear whether the software that will be used across the public sector will be our expense.

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

The Council agrees that the period in which a Local Plan is produced is reduced and broadly agrees with the period of 30-months. However, the Council would question the need for a 6-month period under Stage 1 to "call for suggested areas under the three categories of growth, renewal and protect". It is considered that this could be shortened to 3 months.

Under Stage 1 the Council would also seek clarification as to what is meant by *"including comprehensive "best in class" ways of achieving public involvement at this plan-shaping stage..."*

In terms of Stage 2, the 12-month period appears to be incredibly short. Whilst it is acknowledged that the process overall including the evidence base it to be streamlined, this does not appear to take account of the need to engage Statutory Consultees and / or other authorities on cross-boundary strategic matters and the time this will take. From experience, many Statutory Consultees will not be sufficiently resourced to engage meaningfully in the early stages of a Plan's preparation within the 12-months for Stage 2 is indicated. Stage 2 would also encompass the various committee meetings required to seek agreement for consultation and submission of the Plan (Stage 3) which in itself, due to other meetings and resources can take up to 2-3 months.

In regard to Stage 3, the Council is concerned that no opportunity appears to be afforded to local authorities to amend the Plan following comments made during the consultation and / or for detailed issues raised to be explored. It is considered a vital part of the process that the Council is given the opportunity to listen to its communities responses and address these through modifications to the Plan prior to submission. It is considered that this would save considerable time at the Examination including, the Council potentially having to withdraw the Plan to make the necessary changes.

In regard to the Examination process, the Council would oppose any changes which prevented its communities being able to express their support / objections to the Local Plan and having these heard by the Inspector. This is considered to be a democratic right.

From the details set out under paragraph 2.48, it is not clear whether a Plan can be legally challenged once adopted e.g. a Stage 6. This needs to be clarified.

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

No comment. The Council has no experience of neighbourhood planning in order to make an informed response.

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?

No comment. The Council has no experience of neighbourhood planning in order to make an informed response.

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?

The Council considers it vital that the development industry plays its part in providing more homes. Whilst the Council can grant planning permission, it has little or no control as to whether the permission is implemented / when it is implemented within the 3-year period.

The Government has previously set out potential measures to encourage schemes to be implemented including financial penalties to developers for not implementing schemes and Council being able to refuse to consider applications submitted by developers that have a history of allowing permissions to lapse. These should be re-explored.

In regard to the proposal set out, the Council would query the ability to seek a variety of building types by different builders when, the majority of land is either already owned by a single developer or under a single-developer option. In addition, the more developers / builders involved, the more pressure on a Council's resources to engage with multiple parties.

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?

No comment.

Q16. Sustainability is at the heart of our proposals. What is your priority for sustainability in your area?

The Council considers all the options listed as priorities for sustainable development including others such as the provision of affordable housing and fostering a prosperous economy.

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

Yes. The Council strongly supports this proposal.

As set out in the Council's response to Q6, it supports the approach of allowing development management policies to be included within the Local Plan where exceptional circumstances necessitate a locally defined approach. However, if, through the Local Plan reforms, the ability of local authorities to have development management policies specific to their areas / communities is removed, it will be vital that the opportunity is given to have local design codes in place to ensure that the characteristics of the wider area is respected in any new development.

In regard to the proposal of the level of weight applied to design codes to be reflective of the level of community involvement, guidance would be welcomed that sets out further details as to how communities could be involved in this process and any benchmarks that authorities would have to meet to apply a certain level of weight to their guides / codes.

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.

From the proposals set out in the White Paper it is clear that with the planning system being front-loaded; establishing the principle of development through the Local Plan process, then the central focus for decision-making will be ensuring the timely delivery of well-designed developments that enhance our environments and meet national / local design codes. To achieve this, it will be important that local authorities have the support in place, both internal and external to champion design and assist with the enhancement of planners' skills in these areas. However, whilst a national body can champion and drive forward general principles, it will be important for local authorities to be able to access more practical, local support.

In the South East several local authorities are supported by Design South East, an independent not-for-profit organisation working across the wider south east, delivering expert design advice, facilitation and training for local authorities, the development sector and communities. This is a valued service however, comes at a cost.

In pursuing this proposal, the Council would advocate that the Government, where possible, works with well-established organisations that already provide this support exploring how their services can be made even more accessible and scaled-down to a smaller scale (sub-regions).

The Council would also encourage the Government to look at how greater linkages between planning and building control can be made through a new body. It is not the responsibility of planning to consider issues covered by other legislation e.g. fire safety

and access for emergency vehicles, however, it is the responsibility of planning to create safe places; principles which needs to be incorporated from the outset of the design process.

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

The Council agrees with this proposal.

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

The Council is unsure how this proposal would be implemented given that 'beauty' is subjective and would be extremely difficult to define either nationally or indeed locally given the varying character and unique qualities of its communities.

Linking the concept of 'fast-tracking' back to the Government's proposal of design codes, the Council would consider that a fast-tracking of proposals that meet the local design codes would be more appropriate and easier to assess / measure.

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?

There is no one overriding infrastructure need for Elmbridge. Each site is assessed on its own need.

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 acknowledges that the consolidated infrastructure levy may simplify the process and speed up delivery however, there is limited detail set out in the HWP to fully understand the implications that the proposals may have for the authority.

If affordable housing contributions were included and a comparable uplift in the consolidated levy is to be made to cover any loss currently secured through the S106 process, this would alleviate some concerns. However, the proposal implies that authorities would be prohibited from seeking any form of S106 agreement in the future. This is a significant concern given that site specific infrastructure provisions / improvements are often required to mitigate the impact of new larger developments and they could not be granted planning permission without them. For example, specific road improvements, the provision of new schools and children's play areas including, how these will be maintained, are secured through a S106.

The Council also has concerns as to the implications of the charge being based on the final value of the development when applied to larger sites. If the intention was that development contributions be collected on each individual property as it was sold or

occupied, this would require a significant amount of extra administration which must be costed into the overall charge. In addition, being left to the time whereby the property is sold would lead to significant uncertainty as to how much monies would be generated from the schemes as values fluctuate. The Council is concerned that this could lead to inadequate funding for the required mitigation measures.

Based on the Council's experience of operating CIL, there is a proportion of developers that are poor in informing the collecting authority when a development commences, as required under the current regime. If the lack of notification continues for when a property is nearing sale or occupation, this will lead to properties being occupied or sold with contributions outstanding. This may be partly mitigated by placing the Liability Notice on the Local Land Charge Register. However, this would not capture every sale and would not capture properties developed for rent.

On this basis, the Council considers that the prevention of occupation as suggested in 4.9 is a good idea, but in order for this to be effective the collecting authority must have a "fool proof" method of being notified prior to occupation or sale. A significant penalty / surcharge for failure to inform the collecting authority prior to sale or occupation might help the situation.

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

The Council believes that the rates should be set locally.

It is unclear how a rate set nationally or at an area-specific rate will ensure that development remains viable whilst ensuring sufficient funds to assist in the delivery of the required level of infrastructure to mitigate the impact of new development. Viability rates differ significantly across the Country as well as regions / sub-regions and often between counties. Infrastructure requirements will also vary significantly. It is unclear how a national / area specific rate will capture these variations and ensure that each local authority is able to deliver increased growth alongside the required infrastructure.

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 Infrastructure Levy should aim to collect more than is currently collected in Elmbridge to compensate for the extra affordable housing contributions currently collected through S106 any more than this is likely to have an impact on viability.

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

If this proposal is taken forward the Council considers that only in very exceptional circumstances should a collecting authority be able to borrow against the

Infrastructure Levy. For example, related to the provision of essential / large scale infrastructure that is required up-front to support the deliver of a significant increase in growth.

Further clarity would be required as to how this proposal would work in two tier authorities where it is the County Council's responsibility for the delivery of the major of large-scale infrastructure e.g. road / cycle-ways and schools. The question asked is whether 'local authorities' should be allowed to borrow however, if it is the responsibility of the County Council to provide such infrastructure, will they also be permitted to apply?

In addition, where infrastructure is required cross-boundary, further guidance would be required as to how this would work practically where two or more authorities are involved.

If this proposal is taken forward, some form of guarantee will be needed from developers that the scheme will be implemented to an agreed timetable failing which, financial penalties should apply in the event a Council has borrowed against the proposals and is unable to make repayments.

Overall, borrowing against the Levy is considered to be a considerable risk to the authority should the anticipated development not occur or be delayed for a period of time having potentially devastating impacts on a local authorities' cash-flow / financial stability. Nevertheless, if the option were there, it would be for individual authorities to assess this risk.

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

Yes.

The Council strongly supports this proposal. A number of schemes have been permitted under PD Rights in the Borough whereby due to no additional floorspace being provided (and lawful use of the existing floorspace), no contributions have been applied even when, these developments have created new dwellings. This includes the non-collection of CIL and the securing of affordable housing contributions. Clearly such developments will contribute towards an increased pressure on existing infrastructure and, as with all other developments, it is important that development undertaken through PD Rights mitigates their share of that impact.

This is particularly important given other proposals which have recently extended PD Rights further.

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?

Subject to the consideration of viability, the Council considers that the Government should aim to secure 'more' provision of affordable housing under the Infrastructure Levy, and an even greater provision of on-site affordable provision as possible.

The Government has been clear that we have an affordability crisis and other changes to the planning system reflect the Government's ambition to provide homes for all. This is an ambition shared by the Council.

It is therefore considered that any opportunity should be taken to increase the provision of affordable homes and, in particular, on-site. In areas such as Elmbridge for example, where the availability of suitable development land is limited, it is vital that on-site provision is secured. Whilst in-lieu payments can be secured, and financial contributions from smaller sites collected, opportunities for spending these and providing more affordable homes is somewhat limited.

It will be vital that any policy design takes into account not just the number of affordable homes delivered but also the extent to which the mix of affordable housing delivered meets identified needs. For example, it is possible that the number of affordable homes delivered nationally could be increased (compared to current levels) through a focus on First Homes, which whatever its final design, is likely to require a lower per unit subsidy to deliver than tenures where there is a substantial need (such as social rent), where the call on the Infrastructure Levy (on a per unit basis) would be significantly higher). As such, for any policy target to be meaningful, it needs to consider not just the overall number of affordable homes delivered under the different regimes, but to what extent any new regime delivers an increase in the types of affordable home where there is a clear need (e.g. social rented housing or affordable rented housing).

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?

Yes, the Council would prefer the first option – i.e. in-kind delivery on-site. The Council currently has a strong presumption towards the delivery of affordable housing on qualifying sites and believe that this first option would be the more appropriate of the two in terms of continuing to support delivery on-site. The Council would support the adoption of measures to make it mandatory for in-kind delivery on-site where there was a need / requirement and for local authorities to have the means to specify the forms and tenures of the affordable housing to be delivered.

There would need to be transparency as to the open market value of the dwellings to be allocated as affordable housing and the price paid by the nominated affordable housing developer (and therefore how much of the infrastructure levy deriving from a scheme was attributed to affordable housing delivery). Currently, different affordable housing providers will price affordable homes on development sites in different ways and consideration will need to be given as to any risks or unintended consequences that might come from such an arrangement. Thought will

need to be given as to how discounts are set (are they prescribed nationally or by the local authority, or are they subject to individual negotiation between a developer and affordable housing providers) and what safeguards are in place to ensure that the system is not gamed. Similarly, thought would need to be given as to how developments which are affordable housing led are treated under this scheme (given that affordable housing currently qualifies for relief under CIL at present).

Where in-kind delivery onsite is the presumption, there would need to be consideration to alternatives, where, for whatever reason, this was not deliverable, for example due to the characteristics of the site, the nature of the proposed development or factors that limited affordable housing provider interest in acquiring units. In such circumstances, it is important that developers do not have incentives to pay the levy to support delivery of affordable housing off-site.

Q24(c). If an in-kind delivery approach is taken, should we mitigate against local authority overpayment risk?

Yes. The risks to local authorities should be mitigated. MHCLG, in designing the detail of the policy, should consult with local authorities and other stakeholders as to what these risks are, in what scenarios they may be realised and how the risks can be controlled / managed. In the past, market falls have often provided the opportunities to increase the supply of affordable homes (in counter-cyclical means as housebuilders have sought to sell units or sites to housing associations in package deals) and thought should be given to how any new policy would operate, so as to support delivery of housing, regardless of market conditions, rather than seeing schemes stalled.

The Council would welcome the production of standardised agreements by Government to codify how risk sharing would work.

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?

Yes. There would need to be safeguards put in place. At the moment, there are a number of means by which the quality of affordable housing can be tied down / specified, including:

- Requirements as per national and local planning policy and guidance (as part of the consideration of individual applications)
- Any specific requirements within the section 106 agreement
- Building regulations
- Any funding conditions as stipulated by Homes England
- Any specific requirements agreed between the developer and the affordable housing provider

With regards to the last point, certainly this council does not directly involve itself in setting or checking the specification of homes (in terms of matters such as the quality of fixtures and fittings, the standard of the finishes etc) over and above, statutory requirements. It is not clear within these proposals how these matters

would be dealt with under the proposed new arrangements, although obviously any contract by which affordable homes are purchased by an affordable housing provider will need to include requirements about the quality of the accommodation provided, as currently happens. Does the Government intend to develop standardised agreements for this purpose?

If local authorities are able to set policies locally to fit local circumstances, then that will give scope to set out expectations of quality and the consequences of not meeting them.

Q25. Should local authorities have fewer restrictions over how they spend the Infrastructure Levy?

Yes. If local authorities are able to sufficiently demonstrate that their infrastructure needs have been met and monies from the Infrastructure Levy are still being collected, then it is considered that these could be spent on other priorities.

To ensure financial accountability and transparency in the decision-making process however, it is considered that where appropriate, these other priorities should be consulted upon; agreed by the authority; and monitored / reported upon.

Q25(a). If yes, should an affordable housing 'ring-fence' be developed?

Affordability is not necessarily an issue for every local authority across the Country. It is therefore considered that each individual local authority is given the autonomy to determine whether affordable housing 'ring-fence' be developed and how this should be set / the level it is set at.

Q26. Do you have any views on the potential impact of the proposals raised in this consultation on people with protected characteristics as defined in section 149 of the Equality Act 2010?

No comment.