REPRESENTATIONS TO THE WHITE PAPER: PLANNING FOR THE FUTURE

PREPARED ON BEHALF OF DEVELOPING CONSENSUS

CONTENTS:

1.0   INTRODUCTION AND BACKGROUND

1.1   These representations have been prepared on behalf of Developing Consensus and are a response to the consultation on the Ministry of Housing, Communities and Local Government's (MHCLG's) White Paper (*Planning for the Future)*.

1.2   Developing Consensus is a membership organisation based in the North East of England that works together to create a more prosperous economy in the region. From professional services, finance and the construction industry to local authorities, strategic boards and regional membership organisations, Developing Consensus puts at its heart collaboration which it sees as crucial in being able to tackle barriers preventing growth.

1.3   With 120 members, the organisation works in partnership with bodies including the North East Local Enterprise Partnership (LEP), Confederation of British Industry (CBI) and North East Chamber of Commerce at a strategic level, as well as being linked to the inward investment agenda, to ensure progress and to further emphasise the positives of the region. Their work seeks to make the area more attractive to investors and to provide the right conditions for growth whilst delivering the goals of the North East Strategic Economic Plan.

1.4   To seek to achieve this, the group has set out the following ambitions:

- To ensure the delivery and supply of new developments and buildings to enable the growth of high-quality businesses in the region.

- To explore strategic initiatives designed to make the area an attractive place to invest in.

- To support the North East in attracting inward investment from national and international markets.

- To encourage positive collaboration between the public and private sectors on development and investment, whilst continuing to be an authoritative voice and expert consulting group within the region.

1.5   In this respect, the organisation focusses on 4 specific areas:

- <u>Planning</u> – Working alongside a number of North East local authorities to improve the pre-application and development management processes as well as examining the longer-term needs of the region. This will seek to achieve quicker and better planning decisions to help drive investment in the region.

- <u>Enabling Development</u> – Identifying barriers to development, undertaking interventions and finding solutions to help deliver high quality developments.

- <u>Infrastructure</u> – Identifying priority areas for investment in road, rail and digital infrastructure which is essential for economic growth and attracting investment.

- <u>Inward Investment</u> – Lobbying for stronger inward investment for the region and the creation of high-quality employment.

1.6   Against this background, any changes to the current planning system will clearly impact upon Developing Consensus' activities and its strategy for promoting growth within the North East. We therefore welcome the opportunity to comment on this White Paper. Below we provide our general views on the changes proposed as well as comments on specific proposals contained in the document.

2.0 GENERAL COMMENTS ON THE OVERALL APPROACH

2.1   The introductory sections of the White Paper outline that the current planning system is now over 70 years old and has grown in complexity in recent years to a degree that MHCLG believes it is no longer fit for the 21st Century. This has resulted in a planning system that is discretionary, requires complex assessments, is not transparent for the public, does not focus enough on design and quality and results in inconsistent decision making and not enough development (especially house building) being undertaken.

2.2   As a result of this, the approach is to construct a whole new planning system to attempt to make it quicker, more efficient, more effective and more equitable. In doing so, MHCLG aim to create a more democratic system, which will support growth and incorporate modern technology to enhance participation.

2.3   Whilst we would recognise some of the failings of the planning system that are expressed in the White Paper and we would not disagree that the system needs reform, we believe it is debatable whether the whole system requires change in the way expressed, as this would also remove those areas of the planning system that do operate well, such as its flexibility to respond to changes on the ground (rather than being subject to a more rigid 'zoning type' approach). Given the lack of detail proposed in the reforms, it is also questionable as to how effective these changes will be anyway (see Section 3 below).

2.4   Our view is that future reform to the planning system creates an opportunity for it to be better tailored to meet the requirements of different areas of England. The North East of England has been successful in attracting inward investment in recent years and seizing opportunities when these arise. However notwithstanding this, there is still a clear need for additional transport and digital infrastructure (to bridge the divide with the rest of the country), additional inward investment to boost employment and productivity (which lags behind other regions) and creating a system where development opportunities can be best maximised. In short, we believe there is still a need for additional investment and there are plenty of opportunities for more growth in the region in order for it to meet its potential.

2.5   This needs to be coupled with measures which will ensure local authorities have the

resources and expertise necessary to help facilitate this growth. This means trained staff who can process pre-application requests, determine planning application submissions and formulate planning policies in a speedy, robust and business friendly manner which will aid the region's growth agenda. This will also necessitate similar investment in ensuring statutory and non-statutory consultees are also able to similarly respond to planning requests in a timely, pro-active and positive manner to ensure the whole process is as efficient as possible.

2.6   We would also advocate an examination into the democratic system of determination of planning applications. This should allow more decisions to be delegated to appropriately qualified planning officers and for when politicians do get involved in the decision making process, that they fully understand the benefits of growth for their local communities and that views are consistent across all levels of seniority at the local authority. Currently this is often not the case and planning decisions can sometimes get overly politicised which ultimately frustrates growth and investment.

2.7   Any reform to the system will thus have to be flexible enough to adapt to these local circumstances and ensure it is properly resourced throughout the planning process.

2.8   Our concern with the reforms proposed as they are, is that they are very much 'top down' in nature and seek to impose a 'one size fits all' approach which cannot be readily adapted to meet the challenges and to take advantage of the opportunities within specific areas of England such as the North East.

2.9   The proposals also lack detail in outlining how local authorities (and statutory/non-statutory consultees) will be better resourced to deliver much needed development in this new planning system and how the system of determination of planning applications can be successfully reformed to allow quicker and better decision making.

2.10   One of the central themes of this Government is to 'level-up' the country and reduce inequality between regions. This is particularly relevant in the North East where research by WPI Strategy (https://wpi-strategy.com/levellingupmap/) outlines that 21 of 29 constituencies in the region should be priority areas for levelling up.

2.11   Reforms to the planning system will thus be vital in helping to achieve this and so any

changes brought forward need to move away from the 'top down' model and allow the emergence of an adaptable and flexible planning system that can assist in allowing areas of the North East to become more prosperous. This has been brought into even sharper focus as a result of the Coronavirus (COVID 19) pandemic and the unique challenges this poses.

3.0 SPECIFIC COMMENTS ON THE PROPOSALS

3.1 We provide below our responses to the specific proposals contained within the White Paper. We note that the document's proposals are broken into a series of Pillars corresponding to:

- Planning for development.

- Planning for beautiful and sustainable places.

- Planning for infrastructure and connected places.

3.2 Each Pillar comprises several questions based on the proposals. Our representations have therefore been largely made with reference to these questions.

Pillar 1 – Planning for Development

Question 1

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

3.3 We do not think it is necessarily helpful or productive to distil the planning system into three words. As outlined in Section 2 of these representations, the current system is not without its faults, although we would strongly query the need to remove the whole system entirely and replace it with a new one. For Developing Consensus this would appear to simply replace the current problems with a series of potential new issues.

Question 2

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

3.4   As outlined in Section 1 of these representations, Developing Consensus works alongside the public sector to seek to improve the planning system in the North East, it therefore does get directly and actively involved in the planning process in the local area.

3.5   Indeed, as outlined in Section 2 of these representations, one of the areas of focus for Developing Consensus is to work with local authorities in the North East of England to improve their planning performance; most notably in areas such as the pre-application process, determination planning applications as well as looking at the longer term needs of the region.

Question 3

Our proposals will make it much easier to access plans and contribute your views to planning decisions. How would you like to find out about plans and planning proposals in the future?

3.6   We believe it is important that plans and planning proposals should be as accessible as possible and so would promote a multi-channel approach using both electronic and non-electronic means.

3.7   To enable this to happen, there needs to be investment in digital infrastructure; particularly in areas such as the North East of England. To go alongside this, there also needs to be a commitment to upskilling local authorities and their consultees so that they have the staff with the capabilities to maximise the use of new technologies.

Question 4

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

3.8   As alluded to within Section 2 of these representations, our view is that the planning system should:

- Enable investment in infrastructure such as in road, rail and digital. This will then assist in promoting investment and growth in the region.

- Be flexible and adaptable enough to meet the requirements of different areas of the country and the issues they face. For instance, in the North East of England, any changes/reforms need to bear in mind matters relating to viability.

- Alongside this, the system itself needs to be properly resourced to ensure that it has the right number of staff who have the skills and ability to deliver a high quality, business friendly and prompt service. This applies to local authorities as well as statutory and non-statutory consultees who are involved in the decision-making process. This also needs to filter down to the system of determination whereby Councillors making decisions need to understand the benefits that comes from growth in their area.

Question 5

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

3.9   On the basis of the information provided in this consultation document it is difficult to form an opinion. Whilst it is clear in relation to the overall approach which the MHCLG is trying to achieve; that is to provide more certainty by simplifying the nature of Local Plans by creating these three broad categories of Growth, Renewal and Protected, the approach prompts many unanswered questions, outstanding details and concerns in relation to the proposals put forward.

3.10   Although this streamlined approach has its attractions, our primary concern is that by attempting to create more certainty, the proposals remove the inherent flexibility that is in the current planning system and which benefits the North East in particular. Instead what appears to be emerging is a more rigid system where the fate of land is

effectively 'locked in' through the Local Plan process meaning there may only be an opportunity to revisit the development potential of a site during each Local Plan review. This could have the effect of delaying much needed investment in key areas and sectors.

3.11   For example, it is noted in Growth Areas that areas of flood risk would be excluded from this category, as would other 'important constraints' (with no more detail provided) unless any risk can be fully mitigated. However, this brings into question the extent of information available to determine Growth Areas and their ability to react to changing circumstances. For example, often when further detailed work is undertaken, the extent of the flood zones could change. It is not clear how the proposed system can take this into account and be flexible enough to respond. It appears that this would place the onus to provide a great deal of work up-front as part of the Local Plan process and would raise questions about how this sits with the truncated timescales for their preparation.

3.12   Likewise, for Renewal Areas, it highlights that this will cover existing built areas where 'smaller scale' development is appropriate. However, it is often the case in areas such as the North East that opportunities may present themselves on a shorter timescale (ie. in between Local Plan reviews) for the development of much larger brownfield sites that become available. The notion of simply allowing 'small scale' development in Renewal Areas is therefore too restrictive in nature and may frustrate regeneration on areas of land which, at the time a Local Plan is prepared, may not have been granted a Growth Area designation. The proposals also mention growth within and on the edge of villages. The ability to provide such sustainable and logical extensions to larger settlements should also be considered as this often provides the most effective way to grow towns and cities.

3.13   For Protected Areas, this seems to take in a wide range of areas, some of which would not necessarily preclude development which is sensitively undertaken (eg. in conservation areas). This area requires greater clarification and we would seek reassurance that this would not preclude well designed development coming forward (and not just "smaller scale" development).

3.14   Consequently, further details are required in relation to these changes and additional

thought is needed to maintain a flexible approach to be able to react swiftly to exploit new opportunities for development when they arrive, rather than having to wait for a potential Local Plan review to redesignate land.

3.15   In this instance, references within the document elsewhere to Enterprise Zones and Development Corporations could provide a useful avenue to help promote development, however little detail is given in relation to how these would function within the new system. This requires further explanation.

Question 6

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

3.16   We would agree with the notion of standardising general policies and having them contained in the National Planning Policy Framework (NPPF). This seems a logical approach which would ensure consistency across different authorities. We also agree that Local Plans should be more succinct in nature and deal with area/site specific matters, however the planning system needs to allow specific solutions to be provided at a local level which can help promote development in particular areas (which may face unique challenges).

3.17   In relation to design codes, whilst we support these, they may not be applicable or suitable for all sites (for instance for smaller or less sensitive sites). We would also emphasise that the formulation of design codes needs to be principally led by the developer (rather than imposed on them) and be flexible in nature as these should not affect the deliverability of sites. They should also be adaptable to changing circumstances (especially on larger sites which may be built out over several years). There also needs to be acknowledgement that design codes can sometimes take time to produce and so may cause issues if brought forward through the plan-making process.

3.18   We would again reiterate that for the development management system to perform more effectively, it is crucial that local authorities and their consultees have the

resources to deal with pre-application enquiries and planning applications and have the relevant expertise to make prompt decisions. Currently local authorities (particularly in the North East) are under resourced and this is having a knock-on effect on determining planning applications and ultimately delivering development. In fact, the most recent MHCLG figures published show that in the past 24 months up until June 2020, the majority of North East authorities were in the bottom half of authorities in relation to determining major planning applications within 13 weeks.

3.19   Alongside this, any new/reformed system needs to further empower planning officers to make decisions (increasing the scope of delegation) and ensuring that where politicians are involved in the decision making process, that the message is consistent across all levels and the benefits are growth are fully understood. Currently this is often not the case and planning decisions can sometimes get overly politicised which ultimately frustrates growth and investment.

3.20   In relation to proposals for 'machine readable' applications, this again appears inflexible and could result in planning simply becoming a 'box ticking exercise' and disregarding the need for undertaking a detailed planning balance exercise.

Question 7a and 7b

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?

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

3.21   Whilst the White Paper claims that the notion of 'sustainable development' is widely understood, we would challenge this assumption and indeed planning appeal decisions and case law over recent years demonstrates that the term is not readily defined.

3.22   Using this as a basis for making local plans is not a robust approach. Instead we would advocate specific and measurable tests are provided which can be adaptable in nature

so as to ensure Local Plans are produced which meet the requirements of different areas of the country. This could include such measures as:

- Ensuring local plans explicitly tie in with the growth aspirations for the area in relation to jobs and housing and that this promotes sustainable patterns of development;

- Ensuring that policies are flexible and adaptive so as to facilitate new opportunities which may present themselves over the plan period;

- Making sure a balance is struck in relation to policy requirements and viability/deliverability of development; and

- Providing policies which aid and promote supporting infrastructure to attract longer term inward investment.

3.23   One of the main flaws within the White Paper is a lack of clarity on cross-boundary issues. Within the North East many local authorities are inter-linked and share many cross-cutting issues. They therefore have a history of working together to solve common issues and to promote the area more widely. This has assisted in making the region an attractive area in which to invest over the years and helped with its successes.

3.24   Examples of this joint working include the joint Core Strategy and Urban Core Plan for Newcastle and Gateshead, North East Strategic Economic Plan, The North of Tyne Combined Authority, Tees Valley Combined Authority and cooperation between leaders of all the North East authorities (through Memoranda of Understanding). Work on these cross-boundary issues has often been effective and any reformed/new planning system will need to retain this feature and ensure it remains part of the plan-making process.

Questions 8a and 8b

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

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

3.25   The approach to quantifying housing requirements is very much 'top down' and we would query how realistic it is to also factor in constraints. The White Paper is not clear how this process will work and whether this will be done by MHCLG or by local authorities.

3.26   Under this standard method, housing numbers in many North East authorities are notably low and generally are not as big as recent housing delivery numbers. They show only modest housing growth for the region proportionately compared to other areas of England (particularly London and the South East). When this is factored in alongside the issue that many authorities in the North East are also constrained by the Green Belt and other designations, the Standard Method proposed in the White Paper is likely to frustrate growth aspirations for the area. Conversely, authorities within the south of England will likely face a different problem in having high housing requirements but little options to accommodate the growth.

3.27   These flaws in the approach just emphasises that a 'one size fits all' approach to assessing housing requirements in England is flawed. It is clear that the North East can and should accommodate additional housing growth and that housing growth in this area has been historically driven by economic rather than demographic factors; with the region actively seeking to build on its strengths and attract inward investment and new jobs.

3.28   We would therefore argue that the Standard Method proposals are unfit for purpose in promoting growth in the North East and that they need to be revisited to ensure the growth potential of the North East is better facilitated and that the region's aspirations can be met. We would therefore advocate that economic ambitions (in terms of aspirational job creation) should also be a factor in indicating quantity of development (and these should not be set as ceilings). This can be coupled with a sensible and pragmatic approach to examining Green Belt boundaries, where required, to accommodate extra growth. There are already examples in the region where this has successfully been undertaken in places such as Newcastle, Gateshead, Sunderland and County Durham.

3.29   This would also be entirely consistent with Central Government's 'levelling up' agenda for the North of England and the aforementioned research undertaken by WPI Strategy.

3.30   It is also noted that the White Paper wishes to remove the five-year housing land supply test. The test of whether a local authority has a five-year housing land supply identifies when they need more housing sites in order to meet their projected housing requirement (plus buffer and any associated short fall). To remove this whilst maintaining the historic Housing Delivery Test (HDT) is wholly perverse. Local authorities that have exhausted their supply may pass the HDT but based on the proposals would not need additional sites notwithstanding that they had exhausted their supply, whilst local authorities with a large reserve of delayed sites may not need additional sites but having failed the HDT would be required to do so. This would then result in a situation which potentially directs more development to those Local Authorities with a healthy future supply. For this reason we would therefore advocate that the housing land supply requirements remain in place.

Questions 9a, 9b and 9c

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

Do you agree with our proposals above for the consent arrangements for Renewal and Protected areas?

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

3.31   A faster route to securing planning permission is supported, with permission for the principle of development in Growth Areas secured in many cases at the time when the Local Plan is adopted. However, this will involve much more upfront work at the plan-making stage to demonstrate impacts can be mitigated. It is not clear how this can be achieved within the short (30 month) Local Plan deadline. There is also no mention on how local authorities will be resourced to address this change and how this may

function with working alongside developers.

3.32   Given that this approach will mean less control of the development management process for local authorities, an unintended consequence of this may be that there will be a reluctance from local authorities to identify Growth Areas and instead there would be greater focus on Renewal or Protected Areas. This needs to be taken into consideration.

3.33   Our other concern in relation to this is the inflexible nature of the approach where a developer may wish to build something which does not necessarily sit within the parameters defined in the Growth and Renewal Areas. Whilst it does not rule this out, the White Paper is clear that such cases would be the exception rather than the rule. Again, as outlined in our response to Question 5, this could adversely affect the way in which sites can be developed and will lead to a rigid system that cannot rapidly adapt to changing circumstances. This will especially impinge on areas such as the North East.

3.34   In relation to the approach in Renewal Areas, the presumption in favour of development is welcomed (providing it is flexibly applied) but the idea of fast tracking schemes and using Local/Neighbourhood Development Orders will need to ensure local authorities are resourced and trained to fulfil these requirements and have the knowledge of the processes involved.

3.35   The proposals also mention new settlements being brought forward under the Nationally Significant Infrastructure Projects (NSIP) regime. This is supported as long as this results in speedy determination for planning applications. Likewise, references to Development Corporations and Enterprise Zones are broadly supported but further clarity is needed on how these will function within any new or reform planning system.

Question 10

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

3.36   We can see the benefits of increased digitisation of the planning system in ensuring the decision-making process is faster. However, it should be highlighted that the majority of planning applications are already submitted electronically and consultations during the course of the determination of planning applications are also already done digitally. It therefore remains to be seen how much this will speed up the current process.

3.37   These proposals will also only work if local authorities and relevant consultees have the resources, facilities and training to make best use of the technology. The proposals also only focus on the speed of the decision making and appear to relate to planning applications only, when they should also equally apply to the pre-application process. It is also crucial that planning decisions made are not only fast but also robust and supportive of growth.

3.38   More broadly, there should be support for more delegated decisions from planning officers to again speed up the decision making process and where there is a need for politicians to play a role, this should not be overly politicised and the message of the benefits of growth should be understood at all levels within the local authority.

3.39   Increased digitisation also assumes that the wider public has access to these digital resources and that there is sufficient investment in digital infrastructure to facilitate this. The White Paper is unfortunately silent on this matter.

3.40   Other measures outlined in terms of reducing the documentation to support a planning application, allowing more delegated decisions and streamlining developer contributions and planning conditions are generally welcomed but require more detailed explanation.

Question 11

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

3.41   This is broadly supported as it will make the system much more accessible and will hopefully speed up the decision-making process. We would again highlight that the success of this depends on ensuring access and training on these facilities for local

authorities and statutory/non-statutory consultees. Its success will also depend on the ability of the wider public to have access to and be able to use these features.

Question 12

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

3.42   Whilst a quicker timescale for the production of Local Plans is to be welcomed, there still is the requirement to ensure that they are robust, stand up to scrutiny and deliver the growth an area requires. We have our doubts that this can be achievable given the struggles that many local authorities have in producing existing Local Plans (notwithstanding the proposed more streamlined approach). Any sanctions in place for failing to deliver Local Plans do need to be accompanied by a strategy to ensure local authorities have the capacity and skills to put together Local Plans which promote growth.

3.43   The requirement for a review of Local Plans every five years contained in the proposals is again welcomed, however this must result in meaningful updates and elements such as revised figures on development requirements need to be included as well as picking up on circumstances that may have changed in the intervening period.

3.44   In shortening the timescale for Local Plan preparation, we would maintain that scrutiny of Local Plans through a formal examination should be retained through Examinations in Public. We would not support an examination by written representation or any measures that would allow a local authority to 'self-certify' that their plan can be adopted. These would not lead to robust Local Plans and would not allow for sufficient scrutiny by interested parties.

Questions 13(a) and 13(b)

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

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?

3.45   If Neighbourhood Plans are to be retained, we would argue that they need substantial reform. Currently they can be produced with little scrutiny (given that they do not have the same formal examination process as Local Plans) yet can have a substantial influence on how an area is developed.

3.46   We would therefore seek that if Neighbourhood Plans are retained that they have the same examination process as Local Plans (see our comments to Question 12 above). We do however reject the ideas of prescriptive street level designs as this will lead to an inflexible approach when bringing forward development.

3.47   The use of digital tools (as mentioned in the proposals) should be promoted for Neighbourhood Plans but if this is to occur, then local communities need to have access to these facilities and have the skills to use them.

Question 14

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

3.48   Whilst measures to support faster build-out rates are supported, there appears little detail within these proposals. Any response needs to focus on the barriers which developers face in being able to develop sites quickly. These include unnecessary planning conditions, lack of resources for local authorities and their consultees to process applications and discharge of conditions, as well as viability and deliverability of sites. These factors are a particular challenge in the North East.

3.49   The notion of requiring larger sites to develop a variety of development types to allow phases to come forward together may be unrealistic as ultimately the build out rate will be determined by the market. Instead the focus needs to be on ensuring local authorities can work with developers to help unlock sites quicker and to reduce the

burden of conditions and obligations to allow development to commence promptly following granting of consent.

Pillar 2 – Planning for Beautiful and Sustainable Places

Question 15

What do you think about the design of new development that has happened recently in your area?

3.50   It is recognised that design plays a key part in good planning, however this needs to be balanced amongst other considerations; most notably ensuring that development is still viable and delivers what the market requires.

3.51   In some parts of the North East in particular, viability is a considerable challenge in bringing forward development and whilst design considerations are important, it cannot be at the expense of delivering development to meet the needs and aspirations of the area and which can attract inward investment and jobs.

Question 16

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

3.52   Sustainability is an important consideration in plan making and development management, although how it is defined and then implemented is a contentious issue. There is therefore a clear opportunity through the White Paper to better define sustainability and its role.

3.53   This should be adaptable depending on the area of the country. For instance, in the North East of England there is a clear need to build on successes achieved to date and to stimulate economic development to support additional jobs, investment and growth. Therefore, in this instance, the emphasis should be on sustainable economic growth whilst ensuring that this is balanced appropriately with environmental and social

factors.

Question 17

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

3.54   The approach to design guides and codes appears to be 'top down' in nature and conducted through a National Design Guide, National Design Code and Manual for Streets. The National Design Code has yet to be published and so it is difficult to know the effect this will have on development.

3.55   There is concern however about the appropriateness of using national documents to steer locally produced design codes and guides (or to be used in their place in some instances), rather the use of design codes and guides need to be led through site specific circumstances and a 'bottom-up' approach by an understanding of the character of a particular area. Through directing design codes and guidance through national documents, there is a danger that this simply imposes styles and approaches on particular areas which may benefit more from a bespoke approach. This is particularly important given that many aspects of design are subjective in nature.

3.56   It also worth reiterating that not all areas and sites should require design codes (for instance smaller sites and less sensitive sites) and it may be in some instances a more flexible approach can be adopted. The requirement to put in place some design codes and guidance as part of the Local Plan process also increases the risk of delays as this will inevitably require engagement and discussion amongst numerous stakeholders.

3.57   Whilst it is acknowledged that MHCLG are keen that such locally produced codes and guidance involve the local community (and their input is important), it is vital that such design codes and guidance are led by developers who will ultimately be delivering sites. This will reduce the risk of design potentially adversely affecting the viability of a development. This needs to be acknowledged with any reformed/new planning system.

Question 18

Do you agree that we should establish a new body to support design coding and building better places, and that each authority should have a chief officer for design and place-making?

3.58   We would agree and support the need for local authorities to have staff specialised in design to help bring forward high quality development. However, it is unclear from the White Paper the precise role these people would play, how they would fit within the wider development management process and in what way they may speed-up or improve decision making within local authorities.

3.59   We note that there is also a mention of strengthening and improving the resourcing of planning staff more generally to help deliver development. This is fundamental. However, it will be vital that those resources are wisely used and that staff are appropriately trained to ensure improved and prompt decision making is in place. This also applies to statutory and non-statutory consultees who also play a key role in the development management process.

3.60   Again, the White Paper provides little detail in relation to this and so it remains to be seen how this will be achieved in reality.

Question 19

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

3.61   Whilst we would have no specific objection to this, any example and best practice demonstrated by Homes England must be able to be achievable by the private sector in all areas of the country and not undermine site viability or deliverability.

Question 20

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

3.62 Although the rationale behind fast tracking proposals that adhere to relevant design codes/guides is clear, there is little clarity on how this would work in reality. There are also inherent contradictions in the approach whereby the local community is given a prime role in the say of local design codes and guidance but in other instances, where Pattern Books are used, this can also be an avenue for a fast track decision. Indeed, the use of Pattern Books would again indicate a heavy 'top down' approach which would impose certain styles and designs on areas rather than allowing individual designs to emerge. The prime role of local communities is also concerning. Whilst it is understood that they should play a role as a stakeholder in the development process, having the local community lead on design may result in inconsistent and incoherent responses and presupposes that the local community always know what constitutes good design (when this is clearly not the case). Any approach to design does also need to be deliverable and for that reason should be developer led.

3.63 The 'fast track for beauty' approach also neglects the fact that design is only one facet of what makes a development successful. If something is to be fast tracked, it will also need to demonstrate that it is able to address other important development management issues as well (such as drainage, highways impact, ecology etc). There is no mention of this within the White Paper and again, detail is sadly lacking.

Additional Proposals

3.64 Whilst not attached to any specific questions, Pillar 2 also contains a number of other proposals. We comment on these below.

"We intend to amend the National Planning Policy Framework to ensure that it targets those areas where a reformed planning system can most effectively play a role in mitigating and adapting to climate change and maximising environmental benefits."

3.65 Addressing climate change is a key challenge for the planning system, although it is noted that the proposals in this part of the White Paper are vague and do require further detail. Whilst this can be undertaken through the NPPF, it must avoid being an

overly prescriptive approach which ignores site specific circumstances of particular development sites and takes into account viability and deliverability.

"We intend to design a quicker, simpler framework for assessing environmental impacts and enhancement opportunities, that speeds up the process while protecting and enhancing the most valuable and important habitats and species in England."

3.66   Whilst a quicker and simpler system for assessing matters like environmental impacts is broadly welcomed, there is very little that is specific in the proposals and so the White Paper does not explain how this would be achieved, whilst also ensuring any environmental assessments are suitably robust so as to avoid the risk of them being challenged. For instance, there is a heavy reliance on digital technology to achieve this but there is little explanation as to how this will assist. Likewise there is an idea for more upfront work to be undertaken in order to the save time but this rather ignores the fact that much of the work for Environmental Impact Assessments and Strategic Environmental Assessments is already frontloaded and so it is difficult to understand (from the information available) how this will speed up the process.

"Conserving and enhancing our historic buildings and areas in the 21st century."

3.67   The reforms here (whilst lacking in detailed explanation) appear to provide more flexibility for developing listed buildings and buildings in conservation areas to allow greater scope for sympathetic changes and climate change adaptations. It is our view that developing listed buildings is often time consuming and bureaucratic and often officers seem to apply a personal enthusiasm for protection rather than practical and commercial expertise. Therefore, any greater flexibility is to be welcomed, subject to knowing the details of the proposals.

"To complement our planning reforms, we will facilitate ambitious improvements in the energy efficiency standards for buildings to help deliver our world-leading commitment to net-zero by 2050."

3.68   Currently it is the case that building standards (with the exception of enhanced

standards) fall outside the remit of planning and instead are a concern of building regulations. It is unclear whether these proposals now wish to make these part of the planning system instead. If this is the case, we would not support this as it will inevitably lead to delays and uncertainty in the planning process.

3.69   It is also worth highlighting that such standards can add significantly to build costs and so a balance needs to be struck between achieving improvements to areas such as energy efficiency and ensuring development is deliverable. The North East specifically has areas where viability is a huge challenge and there is a risk that additional policy requirements will make such sites even harder to deliver.

Question 21

When new development happens in your area, what is your priority for what comes with it?

3.70   This depends on the type of development and the requirement for the area. In the case of the North East, there is a real need to improve infrastructure and in particular road, rail and digital links. This is seen as key to unlocking development in the region. Similarly, the success of a development can also often hinge on having complementary uses nearby which can enhance the attractiveness of the development and reinforce its sustainability.

Questions 22(a), 22(b), 22(c) and 22(d)

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?

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

Should the Infrastructure Levy aim to capture the same amount of value

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overall, or more value, to support greater investment in infrastructure, affordable housing and local communities?

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

3.71   Whilst we would agree that the current system of planning obligations is unwieldy and often uncertain, any changes to it in the form of a consolidated Infrastructure Levy (IL) would need to be carefully considered.

3.72   As outlined earlier in these representations, viability is a key concern in developing many areas within the North East, whilst at the same time there is a real need to invest in the region's infrastructure. Whilst the IL could provide more certainty in knowing the scale of planning obligations associated with a development, the key is going to be that it is set at an appropriate rate for the area so that it does not adversely affect the deliverability of development.

3.73   Whilst the measures set out appear promising in that it would set a value based minimum threshold below which the IL will not be charged and that it would be payable on occupation of the development, additional detail is needed so as to assess how beneficial this would be.

3.74   For instance, the idea of setting rates nationally would be resisted as this may well miss the unique challenges of viability that developers face in the North East region and so may ultimately frustrate the delivery of development. Indeed, even a cursory glance at the adopted Community Infrastructure Levy (CIL) rates across England shows how different the approach would need to be, with predominantly much higher CIL rates in the south of England and much lower CIL rates in places such as the North East (or in some cases, no CIL at all as it is simply not viable). This illustrates the viability challenge which the region faces.

3.75   As a result of this, we would advocate setting any rate locally (using professionals who know the market well) and should be guided by the development industry who have the best knowledge of delivering development in the area. Even then, this would need to be carefully considered and take into account specific deliverability challenges and

values in certain areas and the impact this would have on viability (for example former coal mining areas may need additional costly ground works). This means that rates may need to be spatially sensitive if the IL is going to be effective.

3.76   An additional concern we have is if an area largely has values which fall below the minimum threshold (and so IL would not apply), how would it be able to fund infrastructure provision? Often it is these lower value areas which need supporting infrastructure to improve them, however under the IL system it would appear they would receive less infrastructure funding. This could therefore create a vicious circle which would prevent an area from improving.

3.77   The proposals also mention the ability for local authorities to borrow against the IL to forward fund infrastructure. This appears to be a good idea as it may be the case that frontloading infrastructure will assist in the delivery of development but it is acknowledged that this would inevitably come with a high risk for local authorities.

3.78   The White Paper is also silent on how cross boundary infrastructure will work in a new or reformed planning system, as it appears that IL will largely be collected on a local authority basis. It should therefore potentially consider a mechanism for pooling of infrastructure funding to enable the delivery of important cross boundary projects.

Question 23

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

3.79   Our understanding of the increasing use of permitted development rights is that they are intended to assist in the delivery of housing by providing a quick and cheaper way of developing additional homes.

3.80   Our concern in applying IL to these types of the development would be that it would discourage these types of developments coming forward and so may ultimately be counterproductive. Any capture of IL through permitted development rights therefore needs to be carefully considered and clear about how it would be implemented.

Question 24(a), 24(b), 24(c) and 24(d)

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?

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?

If an in-kind delivery approach is taken, should we mitigate against local authority overpayment risk?

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

3.81   In a similar manner to infrastructure, the ability to deliver affordable housing will depend on viability. The approach to incorporating affordable housing within the IL appears to be logical and the option to provide this on-site (through an in-kind delivery, offset against the IL) or off-site is welcomed as there may be cases where one is preferable to the other (for instance there may be a strong need for affordable housing elsewhere in the local authority area and not near the development site itself). The in-kind delivery could be adapted to apply to all affordable tenures, therefore providing even further flexibility for both developers and local authorities.

3.82   However, the degree to which such changes would be a success will depend on the affordable housing contribution proposed for an area and the need for this to be realistic and not to hinder housing delivery. In fact, the proposals do not discuss what would happen if proposals do not meet the minimum value threshold for the IL. Would on-site affordable housing still be required? If so, how would this be delivered?

3.83   Whilst the proposals discuss the need to ensure affordable homes provided on-site are of sufficient quality, this can clearly be discussed and addressed at the planning application stage (in terms of materials/construction methods) and would be also be

contained in any local design codes and guides were these to come forward. We therefore do not consider sanctions for lower quality affordable housing are required.

Questions 25(a) and 25(b)

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

If yes, should an affordable housing 'ring-fence' be developed?

3.84   We would support greater powers for local authorities to spend the IL, as they will be best placed to know the type of infrastructure that is needed to support future development in the area. The IL however needs a clear mechanism to allow this to happen, so it is clear where the monies raised are being spent.

3.85   This process should be transparent and involve developers in the process. This could include a list of the infrastructure which is to be funded through IL (similar to the Regulation 123 list for CIL) and so it is clear where the funding is being spent and the likely timetable for delivery.

Additional Comments

3.86   Whilst not attached to any specific questions, Pillar 3 makes reference to a number of paragraphs in relation to how it is envisaged that the development industry moves into the new system. In particular there are proposals to develop a comprehensive resources and skills strategy.

3.87   This rightly highlights that a fundamental part of implementing any new or reformed planning system will be ensuring that the skills and resources are in place. This includes some positive measures in terms of greater regulation of the pre-application process and providing targets to improve performance.

3.88   Whilst these types of measures are broadly welcomed, there is much which is not explained. For instance, regulating the pre-application process is clearly a good idea,

but the White Paper does not detail how this will ensure the pre-application advice is delivered in a timely manner and is comprehensive in nature. Likewise, assessing the performance of local authorities in determining planning applications is a sensible measure, but the White Paper fails to explain how this will be achieved and the mechanisms in place to ensure local authorities meet their performance targets.

3.89   Key to all this will be funding. It appears that whilst there may be some funding initially to assist, it is then going to be the case that planning departments will be largely self-funded through application fees and being able to use some of the developer contributions from the IL. As it is still envisaged that planning fees will be set nationally, it is unclear whether this strategy alone will be sufficient to fund the improvements that the planning system desperately needs. The proposals make mention of better technology to aid in improving the planning service, yet it is not explicit in how this will assist.

3.90   To move to better planning system there needs to be firmer commitment to resourcing local authorities and their consultees and to train staff to provide a quicker and better quality service which is more business friendly and recognises the key role they play in securing growth, investment and jobs. This applies to the pre-application process, determining planning applications and producing Local Plans.

4.0   SUMMARY AND CONCLUSIONS

4.1   These representations have been prepared on behalf of Developing Consensus in relation to MHCLG's White Paper (*Planning for the Future*). Developing Consensus is a member organisation seeking to use its influence to create a more prosperous economy in the North East of England. This includes working with local authorities in the region to seek improvements to the development management and plan-making processes.

4.2   Whilst we agree with many of the flaws of the current planning system identified within the White Paper, the content of the document sadly lacks the detail in order to assess whether the proposals put forward for a new planning system will ultimately result in more and better development with greater participation and certainty, or whether it will simply result in new issues being created. As such, this raises questions whether a new system is actually required or whether the existing system can be reformed.

4.3   From what is presented in the White Paper, our main concern is that it seeks in many instances to impose a 'top down' approach where much is driven by MHCLG itself. The danger with this approach is that the planning system ends up being 'one size fits all' which cannot adequately meet the challenges and opportunities for different areas of the country such as the North East of England.

4.4   Any new planning system therefore needs to maximise the opportunities to provide flexibility so as to be adaptable for different areas of England in order to address their particular issues. The North East as a region is an attractive area to do business and has succeeded in attracting high-quality inward investment over the years. However, it is also not without its issues and there is much more potential for the North East to grow in order to address future infrastructure requirements, boost productivity and jobs and provide a more prosperous environment. The approach contained in the White Paper appears overly centralised and rigid and therefore is not likely to be reflective of the needs and opportunities of areas such as the North East.

4.5   The approach to providing a more 'zoning type' system is that whilst it will provide more certainty, this would be at the expense of flexibility and there seems little scope to make alternative proposals on land identified for something else outside of a Local

Plan review. This means that the proposed system will not be able to react quickly enough to changing circumstances and opportunities which may present themselves in between Local Plan reviews.

4.6   The approach to Local Plans themselves is ambitious and given that the system would require even more upfront work to be undertaken, we do query whether the 30 month deadline for plan preparation is realistic.

4.7   Both the changes to the plan-making and the development management processes will require significant investment in resources and facilities for local authorities and statutory/non-statutory consultees, including more and better trained staff who can provide quick decisions that are business friendly and which promote growth. Currently these resources are often inadequate and lead to delays and poor decisions at crucial stages in the planning process such as during pre-application enquiries, processing planning applications, discharging planning conditions and more widely providing pro-growth and robust Local Plans. Moving to a new/reformed planning system will inevitably require further funding and resourcing to be made available so that these matters can be addressed. Unfortunately, the White Paper is thin on the detail as to how this will be achieved.

4.8   Further explanation in this area is therefore fundamental to the planning system being a success. Linked to this is examining the determination process itself. For speedier and better-quality planning decisions, planning officers should be empowered further and be able to make more delegated decisions. Where politicians are involved in the decision-making process, they need to be well informed at all levels and fully understand the benefits of growth for their area. Currently this is often not the case and planning decisions can sometimes get overly politicised which ultimately frustrates growth and investment.

4.9   The White Paper also places a strong emphasis on design and infrastructure. Although these provide some interesting ideas, they unfortunately often lack detail to understand their implications. Ultimately approaches to design and infrastructure need to be locally led so as not to impose measures on local authorities and to ensure viability is not undermined to a degree that this may adversely affect the delivery of the development.

4.10   Therefore, in order that these reforms progress, additional detail and explanation is needed. We would therefore recommend additional dialogue with the development industry to explore further the ideas outlined in the White Paper so that the new system can deliver the development that the country needs.

4.11   We trust that our views will be taken into account when progressing the ideas in the White Paper. However, should you require any further explanation or clarification, please do not hesitate to contact Developing Consensus directly.