

## **Appendix 6**

Cllr J Lamb  
Leader of the Council  
Southend-on-Sea Borough Council  
Civic Centre  
Victoria Avenue  
Southend-on-Sea  
Essex

Our ref:  
Your ref:  
Date: 10<sup>th</sup> May 2018  
Telephone: 01702 215000  
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Dear Councillor Lamb,

**Standing Order 46: Response to Ministry of Housing, Communities & Local Government consultations – “National Planning Policy Framework” and “Supporting housing delivery through developer contributions”**

The draft revised National Planning Policy Framework (NPPF) incorporates policy proposals previously consulted on in the Housing White Paper and the “Planning for the right homes in the right places” consultation to which the Council responded both individually and as part of a joint response from the South Essex group of Planning Authorities (Basildon BC, Brentwood BC, Castle Point BC, Rochford DC, Southend BC Thurrock BC and Essex CC).

Following the announcements at Autumn Budget 2017, the government is seeking views on a number of additional proposals to change planning policy and legislation to bring forward more land in the right places. The NPPF consultation seeks views on these additional policy proposals and also provides indirect opportunity to comment on revisions to National Planning Practice Guidance (PPG). In addition, the government is seeking views on a series of reforms to the existing system of developer contributions in the short term. These reforms are aimed at benefitting the local authorities who administer them, developers who pay them and the communities in which development takes place.

Comments are invited by **10<sup>th</sup> May 2018**. Subject to consultation responses the Government plans to issue a revised National Planning Policy Framework (NPPF) before the summer. It is important that Southend Borough Council provides a formal response to this consultation as changes to national policy and guidance will impact upon the preparation of the South East Essex Joint Strategic Plan and Southend’s new Local Plan.

I am seeking your authority pursuant to Standing Order 46 to recommend a Southend Borough Council response to each of the consultations, as set out in Attachment 1 and Attachment 2.

If you concur with my proposed action as set out above, and as per the attached consultation responses (Attachment 1 and Attachment 2), I should be grateful if you would sign and return this letter.

This has also been discussed and agreed with colleagues in Strategic Housing.

Yours sincerely,



Andrew Lewis  
Deputy Chief Executive (Place)

**Attachment 1:** Consultation Response – NPPF (and PPG)

**Attachment 2:** Consultation Response – Supporting housing delivery through developer contributions

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I support your proposed action set out above.

Signed .....  
Councillor John Lamb, Leader of the Council

Date 10/5/18 .....

## Local Authority Organisational Consultation Response: National Planning Policy Framework

### Chapter 1 Introduction

Q1 Do you have any comments on the text of Chapter 1?

**Response:**

No.

### Chapter 2 Achieving sustainable development

Q2 Do you agree with the changes to the sustainable development objectives and the presumption in favour of sustainable development?

**Response:**

No.

Q3 Do you agree that the core principles section should be deleted, given its content has been retained and moved to other appropriate parts of the Framework?

**Response:**

*It is considered that the new structure and loss of the Core Planning Principles potentially dilutes the holistic approach to supporting economic growth as it allows for individual subjects to be addressed in isolation of each other, rather than on an integrated basis. Whilst the Government's drive to boost housing delivery is supported, this must be delivered through a 'place' based approach to planning, and not to the exclusion of all else. The loss of focus on economic growth as an important component of sustainable growth is considered particularly regrettable. The deletion of the Core Planning Principles could also undermine their centrality to the Government's vision for planning and potential for demonstrating how they might fulfil the Sustainable Development Goals.*

Q4 Do you have any other comments on the text of Chapter 2, including the approach to providing additional certainty for neighbourhood plans in some circumstances?

**Response:**

*The Borough Council welcomes the continued presumption in favour of sustainable development which lies at the heart of development plan preparation, and also welcomes the clarification in paragraph 12 in respect of the presumption in favour of sustainable development not changing the statutory status of the development plan as the starting point for decision making. However, the Borough Council is concerned to ensure that the character of urban areas is protected from over development and poor design. Proposed revisions to policy relating to sustainable development (paragraph 11) are ambiguous and could be read as precluding design issues, which is in direct conflict with the objectives set out in the revised NPPF to achieve quality design. The Borough Council would wish to see the current wording of the NPPF, referring to those cases where exceptions to granting planning permission apply, retained (current NPPF paragraph 14, including footnote 9) and to make it explicitly clear that poor design and over development are two of the key reasons for not permitting a development.*

*In addition, paragraph 14 is considered to be ambiguous and confuses rather than clarifies the objectives of paragraph 13. It is recommended that this paragraph is deleted along with its associated cross referenced paragraph 75.*

### **Chapter 3 Plan-making**

Q5 Do you agree with the further changes proposed to the tests of soundness, and to the other changes of policy in this chapter that have not already been consulted on?

**Response:**

*Yes. The Borough Council welcomes the continuing recognition of the importance of having an up to date development plan and the new approach of the tests at examination to requiring the presentation of 'an acceptable strategy'.*

Q6 Do you have any other comments on the text of Chapter 3?

**Response:**

*The Borough Council welcomes the proposals to introduce a 'Statement of Common Ground' to promote effective joint working. The Borough Council is already in the process of preparing a 'Statement of Common Ground' as part of joint working with its south Essex partners who have recently formed the Association of South Essex Local Authorities (ASELA). ASELA has agreed to the preparation of a statutory Joint Spatial Plan for south Essex.*

*The Borough Council also welcomes clarity in the application of ‘duty to co-operate’ provisions in development plan preparation and their inclusion as tests of ‘soundness’ in examining the plan.*

*The recognised need for the development of strategic policies in development plans is supported by the Borough Council. These are considered to be essential to effective plan making in an area. The Borough Council is already engaged in the preparation of a statutory Joint Spatial Plan with its south Essex partners to set out appropriate strategic policies to guide development in the sub-region and the preparation of local plans. Although the NPPF confirms the Government’s new ‘portfolio’ approach to plan-making and the role of ‘strategic plans’ and ‘local policies’, it is considered that it should be more explicit about its preference for joint strategic plans to support those authorities, like South Essex, that are piloting the new approach. However, there is the risk that given the resources, costs and effort required to develop plans containing strategic policies it may undermine other aspects of plan-making at a local level. It would be helpful for the NPPF to be clear on its support for plan-making beyond those containing strategic policies.*

*The Borough Council welcomes proposed changes in relation to Development Contributions aimed at clearly setting out affordable housing and infrastructure expectations at the plan-making stage so that developers can factor this into the viability of development proposals.*

#### **Chapter 4 Decision-making**

Q7 The revised draft Framework expects all viability assessments to be made publicly available. Are there any circumstances where this would be problematic?

**Response:**

*It is agreed that viability assessments should be publicly available to allow transparency in planning.*

Q8 Would it be helpful for national planning guidance to go further and set out the circumstances in which viability assessment to accompany planning applications would be acceptable?

**Response:**

*The Draft Planning Practice Guidance ([https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/687239/Draft\\_planning\\_practice\\_guidance.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/687239/Draft_planning_practice_guidance.pdf)) appears adequate in this respect.*

Q9 What would be the benefits of going further and mandating the use of review mechanisms to capture increases in the value of a large or multi-phased development?

**Response:**

*Inclusion of a mandatory requirement for review mechanisms within national policy would support local authorities in decisions to impose such mechanisms in the interests of delivering maximum viable levels of affordable housing and supporting infrastructure. However, national policy/guidance needs to set out a clear mechanism for review(s).*

Q10 Do you have any comments on the text of Chapter 4?

**Response:**

*The Borough Council welcomes the encouragement of pre-application engagement and front loading; and generally welcomes proposed changes in relation to planning conditions and obligations aimed at speeding up the assessment process of planning proposals. However, in some instances developers choose to agree all planning obligations simply to secure a planning permission and then seek to renegotiate at a later date. This is costly and time consuming for all parties and could be avoided by allowing local authorities to request evidence to support the viability of a scheme where this has not been established at the plan making stage.*

*Para 40 references early engagement; is it worth commenting on the importance of this in relation to affordable housing provision in light of certain cases of attempts to design out affordable housing.*

*The Borough Council welcomes the encouragement of pre-application engagement and front loading particularly in relation to scheme design and the provision of affordable housing. Noting that in some instances developers will propose a scheme which is policy compliant, however does not factor in affordable housing provision and management in terms of design. Early engagement enables the opportunity for communication between the developer, the Council and Register Providers in order to ensure submitted designs are conducive to on-site affordable housing provision.*

*The related Draft Planning Practice Guidance, where it relates to standardised inputs for viability assessments, is welcomed. In particular, the approach to calculating costs, benchmark land value and profit is supported. However, it is considered that the guidance could present a stronger position in respect of placing the onus on landowners/developers to provide local authorities with evidence at plan-making stage to demonstrate that sites are deliverable.*

## Chapter 5 Delivering a wide choice of high quality homes

Q11 What are your views on the most appropriate combination of policy requirements to ensure that a suitable proportion of land for homes comes forward as small or medium sized sites?

**Response:**

*The Borough Council disagrees with the proposal for twenty percent of sites to be half a hectare or less, as the requirement should be driven by demonstrable housing need, affordability of market housing and site development viability. Each local authority area is different and many authorities benefit from a number of smaller sites as opposed to large developments and would therefore, be disadvantaged by this proposal.*

*The Borough Council considers that the way forward is through partnership working with developers and the Government providing developers with greater incentives to deliver sites.*

Q12 Do you agree with the application of the presumption in favour of sustainable development where delivery is below 75% of the housing required from 2020?

**Response:**

*There are significant concerns about the Housing Delivery Test in advance of the final Letwin report and consideration of the issues flowing from that report which is essentially about the barriers to delivery – much of which lies outside the control of the LPA. For instance, the availability of built environment professionals and skilled labour, materials, the dilatoriness of utility companies, cost and time of land remediation and infrastructure requirements etc. With only 10 major developers in the country for instance, it is entirely possible for the development industry to slow the rate of delivery in order to get planning permission on non-allocated green field sites despite an up to date Local Plan. In addition, there is a need to consider the positive steps that a LPA is taking to address housing delivery, sometimes in the face of significant constraints.*

*The Borough Council is concerned that in referring to the presumption in favour of sustainable development where the adequacy of the housing supply tests are not met could preclude the consideration of good design, issues of over development and broader policy objectives, and as such be in direct conflict with the design statements in the NPPF.*



Q13 Do you agree with the new policy on exception sites for entry-level homes?

**Response:**

*Paragraph 72 re-introduces the idea of starter homes as exception sites, which could be for sale or rent and should be outside existing settlements on land not already allocated. This would need to be carefully considered within policies in the Development Plan and must demonstrate that it meets a local need i.e. determined by local circumstances and housing priorities.*

Q14 Do you have any other comments on the text of Chapter 5?

**Response:**

*The Borough Council recognises the need for increasing housing delivery to meet local needs and has already commissioned and completed joint studies with its south Essex Local Authority partners to objectively assess housing needs across the sub-region. The Borough Council supports the standardisation in the calculation of housing need in the draft NPPF. The Borough Council also welcomes initiatives to improve the delivery of affordable housing.*

*Glossary 2 stipulates that affordable housing is for “those whose needs are not met by the market” but does not specify what this means in local terms. To reflect the government’s ambitions to end rough sleeping by 2027, we feel it would be appropriate for the NPPF/PPG to introduce a formula for calculating what constitutes “affordable housing” in a local market context and the income groups different affordable housing products are aimed at. This would help with planning to meet a mix of needs for lower and middle income households, as well as assisting local authorities in their Homelessness Act 2002 requirements to review what accommodation is available for those who are, or may become homeless, and to use this information to develop a strategy to meet their needs.*

*In line with a “living rents” approach, the need for affordable housing in an LA area could be based on a formula that takes into account whether local people can access the lower end/ quartile of the local private sector without spending disproportionate amounts of their incomes on rent/mortgage. As part of the plan making process LA’s can then consider constraints and other issues that may prevent them from meeting local need.*

*In undertaking needs assessments for affordable housing, we also feel it important to distinguish between affordable housing products aimed at helping those on the lowest incomes/in greatest housing need and intermediate, home ownership products such as Shared Ownership and Starter Homes, aimed at meeting the needs of aspiring homeowners. Depending on the market area, the latter can require relatively high household incomes at the point of obtaining a mortgage and can work out more expensive than lower quartile home-ownership.*

*In further reference to paragraph 62 (meeting the needs of particular groups) it would be helpful if this could indicate the way in which identifying the needs of specified groups should link up with the Government's recently proposed, new, Statement of Expectation for Supported Housing, which states:*

*"The local strategic plan should set out how they will meet the current and future needs of all supported housing client groups over a five-year period. This should include, if necessary, how they will meet particular supported housing needs outside of the local authority area (e.g. the use of specialist provision which is only provided in certain areas). We would expect these plans to be made public to promote transparency"*

*Linking the Statement of Expectation for Supported Housing, The Statement of Common Ground and the needs of particular groups may help prevent duplication of needs assessments and/or highlight opportunities for joint working between housing, planning and commissioning teams. In turn, this could ensure a holistic approach to meeting the housing needs of vulnerable groups and make best use of stretched resource when undertaking needs assessments.*

*Paragraph 64 should be reconsidered as it does not support the delivery of affordable housing. The amount of affordable housing on brownfield sites should be established through viability assessments and not through the use of the vacant building credit. In addition, there is real concern about the definition of affordable housing. The definition as set out in the appendix to the draft NPPF includes a wide range of intermediate housing products which really stretch what could reasonably be considered affordable. It is likely that many on local incomes will be unable to afford what in terms of the new definition will be badged as affordable housing. For many households in many housing markets, 20 per cent below market rent or price remains unaffordable. High demand areas such where property prices have risen more markedly relative to average incomes are struggling to meet their affordable need. In the current housing market many affordable housing products are beyond the reach of local people because of the disparity between suppressed income levels and escalating house prices as well as for rent. The concept of a living rent should be considered for low income groups. Although Starter Homes may have a role in the housing market, they should not be included as a form of affordable housing which can be delivered in place of other forms of affordable housing tenure if they are not to be treated as affordable housing in perpetuity. Should the definition of affordable housing be revised as proposed, then local authorities should have flexibility to determine the balance of affordable housing products delivered locally, including rent and home ownership.*

*Whilst the affordable rented tenure has largely replaced social rented, we do not want to dissuade the provision of social rented properties, and the removal of the social rented definition would send the wrong message, particularly noting that there is a need for this tenure.*

*Whilst it is fully recognised that an adequate and deliverable supply of land is vital in meeting future housing needs, it is considered that the Government has failed to recognise that delivering privately owned sites is not within the powers or remit of the local planning authority unless time consuming and costly CPO powers are pursued. Delivery is the responsibility of the developer and this will be dictated by the market place and the business decisions of individual developers. It may well be in the developers' financial or project programming interest to 'land bank' sites. Allocating additional land not identified in a local plan will not resolve this problem. These proposals merely penalise the local planning authority for decisions which are mainly outside their control.*

*It is considered that the 95% delivery target in paragraph 77 is unrealistic and unreasonable; and it is not considered that pursuing action plans to assess the causes of under delivery or restricting planning permissions to shorter time periods will resolve the matter. Under delivery is often due to developer decisions and other factors that are beyond the control of the local authority, and local authorities should not be penalised for this. It is recommended that this paragraph be reconsidered.*

*In addition, where objectively assessed housing needs are to be provided by two neighbouring authorities working jointly together, it is considered that the 5 year land supply criteria should apply to the two authorities as one joint test, not as individual tests for each authority. The latter would be illogical given the joint provision by neighbouring authorities to meet objectively assessed housing needs. It is considered that some clarity is urgently needed on whether local planning authorities can manage housing delivery (both in terms of 5 year land supply and Housing Delivery Test) on a 'strategic plan' basis as both the draft NPPF and PPG are currently ambiguous on this. The draft NPPF should allow for any 5 year housing land supply position and Housing Delivery Test to also be applied across the same housing standardised assessment area.*

*Although the draft NPPF continues to highlight the role strategic development options, such as new communities, can play in contributing to housing delivery, the Government's promised support for the concept of 'Garden Villages and Towns' has not materialised. The principles behind this are important and should be included in national policy, or at the very least, in the PPG. Considering the Government's recent commitment to Sustainable Development Goals, it is also deemed appropriate that this should be referred to in the NPPF.*

*In addition, paragraph 74c footnote 29 refers to 85% for the threshold delivery test from November 2018 whereas the Delivery Test (paragraph 211) refers to 25%. Paragraph 74 and paragraph 211 should be combined to provide clarity on this issue and avoid the necessity for confusing and ambiguous footnotes. As currently worded and set out, the 5 year land*

*supply buffer criteria and its relationship to the Housing Delivery Tests, is ambiguous and confusing.*

*Finally, it is considered that too much emphasis is given in the NPPF to creating new stock and not bringing poor quality, unused or under-utilised housing stock back into use by refurbishment, retro-fitting or fiscal incentives. Where properties have been built purely for investment, fiscal measures should be considered to discourage such investment and consequent under-utilisation of housing.*

## **Chapter 6 Building a strong, competitive economy**

Q15 Do you agree with the policy changes on supporting business growth and productivity, including the approach to accommodating local business and community needs in rural areas?

**Response:**

*The proposed revisions to policy relating to economic development are generally welcomed.*

Q16 Do you have any other comments on the text of chapter 6?

**Response:**

*No.*

## **Chapter 7 Ensuring the vitality of town centres**

Q17 Do you agree with the policy changes on planning for identified retail needs and considering planning applications for town centre uses?

**Response:**

*The proposed revisions to policy relating to economic development and town centres are generally welcomed. However, it is considered that the proposed revised policy fails to recognise and adequately address the significant challenges that town centres such as Southend are facing as a result of changing retail shopping patterns and provision. The Borough Council considers that the policy should recognise these significant challenges and be far more positive in its approach in helping town centres to adapt to changing retail patterns and demand in order for centres to retain their vitality and viability.*

Q18 Do you have any other comments on the text of Chapter 7?

**Response:**

*The ever increasing introduction of PD rights runs contrary to the aspirations of the NPPF and local Development Plans and is actually harming the appearance and viability of Town centres, while providing in some cases, substandard accommodation. It would be better for the PD rights aspect to be deleted and for appropriate encouragement in national and local policy. It could also be undermining public support for planning as it is increasingly been perceived as a free for all.*

**Chapter 8 Promoting healthy and safe communities**

Q19 Do you have any comments on the new policies in Chapter 8 that have not already been consulted on?

**Response:**

*The Borough Council welcomes the proposed changes to policy in relation to healthy and safe communities. However, the section is surprisingly short for such an important issue where place making and good design has such a significant impact on public health and wellbeing. There is a clear link between the New Urban Agenda and the SDGs and it would have been helpful and logical to include reference to them in this chapter.*

Q20 Do you have any other comments the text of Chapter 8?

**Response:**

No.

**Chapter 9 Promoting sustainable transport**

Q21 Do you agree with the changes to the transport chapter that point to the way that all aspects of transport should be considered, both in planning for transport and assessing transport impacts?

**Response:**

Yes.

Q22 Do you agree with the policy change that recognises the importance of general aviation facilities?

**Response:**

Yes.

Q23 Do you have any other comments on the text of Chapter 9?

**Response:**

*The Borough Council supports the proposed changes to policy in relation to sustainable transport although greater clarification in paragraph 111 of what constitutes “significant amounts of movement”, thus requiring a Travel Plan, Transport Statement or Transport Assessment, would be helpful.*

### **Chapter 10 Supporting high quality communications**

Q24 Do you have any comments on the text of Chapter 10?

**Response:**

*The Borough Council welcomes the proposed changes to policy in relation to high quality communications. It is suggested that reference could be made as to how digitally enabled approaches to place-making could be supported,*

### **Chapter 11 Making effective use of land**

Q25 Do you agree with the proposed approaches to under-utilised land, reallocating land for other uses and making it easier to convert land which is in existing use?

**Response:**

*Yes, in principle. However, this should be secured through the appropriate wording of national and local policies and proper assessment of planning applications rather than through the application of PD rights which could result in inappropriate uses, detrimental impact to areas and poor living standards. For example, use of airspace above existing residential and commercial buildings to create new homes should remain within planning control and not be allowed through permitted development as this could result in poor quality environments. The Borough Council has real concerns over the quality of environments being created through the wide-spread application and use of permitted development rights which seem to fly in the face of the principles of sustainable development.*

Q26 Do you agree with the proposed approach to employing minimum density standards where there is a shortage of land for meeting identified housing needs?

**Response:**

*The Borough Council recognises the need to optimise the use of urban land in meeting development needs and has consistently sought to do this in previous and current development plans through provisions such as density standards. However, this needs to be sensitively applied in order to protect the character and amenities of areas and to retain a sense of place. Over development and poor design can have a detrimental impact on an area and lead to a decline in the quality of the urban environment.*

*The Borough Council is therefore opposed to the inclusion of statements in the proposed new policy that “Where there is an existing or anticipated shortage of land for meeting identified housing needs, it is especially important that planning policies and decisions avoid homes being built at low densities”. In certain areas low density development may be appropriate in order to retain the areas distinct character regardless of the prevailing development needs in the area as a whole. These issues are considered to be best determined at the local level through the preparation of local plans and tested at examination. Similarly, specifically promoting upward extensions and potentially relaxing daylight and sunlight standards is not supported. Again these are issues that should be determined at the local level through the preparation of local plans and design guides and tested at examination. These provisions are considered to be in direct conflict with the objectives set out in proposed revised policy relating to ‘achieving well designed places’ (Chapter 12).*

Q27 Do you have any other comments on the text of Chapter 11?

**Response:**

No.

## **Chapter 12 Achieving well-designed places**

Q28 Do you have any comments on the changes of policy in Chapter 12 that have not already been consulted on?

**Response:**

*The loss of focus in detailed design advice, particularly in relation to the ‘Garden Villages and Towns’ concept, is considered particularly regrettable. In addition, there appears to be little in this section for such an important issue as design and place-making. This has huge implications for people’s health and well-being and can make the difference between successful places and unsuccessful which links to so many other parts of the NPPF including*

*sustainable development, transport, and health etc. It is about place making, providing places that people want to live with high quality design and amenity etc. The section maybe needs greater emphasis. The impact of PD rights should also be more directly picked up in the NPPF particularly where it affects the economic viability and quality of places.*

Q29 Do you have any other comments on the text of Chapter 12?

**Response:**

*Whilst the Borough Council welcomes and supports the clear and strong statements about the need for quality design in all development, it is concerned that this is not adequately reflected in other parts of the proposed revised policy, particularly that relating to the presumption in favour of sustainable development, maintaining a 5 year land supply and making the optimum use of land which are in direct conflict with it. The dispersion of the Core Planning Principles throughout the draft NPPF could also result in dilution of the objective of creating well-designed places.*

*The Borough Council would wish to see the inclusion in policy of clear statements that achieving quality design to retain the distinctive character of areas and their sense of place applies to all proposals for development regardless of any other issues such as housing need, land supply or making the optimum use of land.*

*Unfortunately, the increasing application of PD for conversion to residential uses often fails to result in good design and is creating poor standard accommodation. This is contrary to the aims of the NPPF for sustainable development. Well-designed places would be better guided by national and local policies as opposed to poor substandard development being allowed through the implementation of PD rights.*

**Chapter 13 Protecting the Green Belt**

Q30 Do you agree with the proposed changes to enable greater use of brownfield land for housing in the Green Belt, and to provide for the other forms of development that are 'not inappropriate' in the Green Belt?

**Response:**

*Yes, subject to comments in response to Q31.*



Q31 Do you have any other comments on the text of Chapter 13?

**Response:**

*The Borough Council welcomes the continued protection of Green Belt land. However, some of the proposed wording is considered to be ambiguous in relation to the protection of the Green Belt and when 'exceptional circumstances' may apply.*

*In the revised draft (paragraph 136) it implies that Green Belt boundaries should be considered for review where brownfield development has been maximised, density in town centres and other areas well served by public transport has been optimised and opportunities for neighbouring authorities to meet any unmet need have been exhausted. With Southend already having limited land resources, high densities and tight Green Belt boundaries, this scenario is already evident.*

*The Borough Council considers that national policy should make it explicitly clear that as part of the preparation of a strategic plan a Green Belt assessment should be undertaken to ascertain whether the land affected still meets the stated purposes of the Green Belt. If it does, policy should state that exceptions criteria do not apply regardless of any unmet development needs of the area. To do otherwise would undermine the stated purposes of Green Belts and their permanence. In cases where it no longer serves its purpose a local authority should be able to reasonably amend it to meet its needs.*

**Chapter 14 Meeting the challenge of climate change, flooding and coastal change**

Q32 Do you have any comments on the text of Chapter 14?

**Response:**

*The Borough Council welcomes the proposed changes to policy in relation to the natural environment and flooding. However, the chapter does appear to conflict with Government's recently published 25 Year Environment Plan. There is little reference to the use of sustainable urban drainage systems, and the nature recovery network and Sustainable Development Goals are not referred to.*

Q33 Does paragraph 149b need any further amendment to reflect the ambitions in the Clean Growth Strategy to reduce emissions from buildings?

**Response:**

*No comment.*

## **Chapter 15 Conserving and enhancing the natural environment**

Q34 Do you agree with the approach to clarifying and strengthening protection for areas of particular environmental importance in the context of the 25 Year Environment Plan and national infrastructure requirements, including the level of protection for ancient woodland and aged or veteran trees?

***Response:***

*No comment.*

Q35 Do you have any other comments on the text of Chapter 15?

***Response:***

*No.*

## **Chapter 16 Conserving and enhancing the historic environment**

Q36 Do you have any comments on the text of Chapter 16?

***Response:***

*The Borough Council agrees to the added support for designated heritage assets, but similarly recognises the need for balance in bringing forward schemes of significant public benefit.*

## **Chapter 17 Facilitating the sustainable use of minerals**

Q37 Do you have any comments on the changes of policy in Chapter 17, or on any other aspects of the text of this chapter?

***Response:***

*No.*

Q38 Do you think that planning policy on minerals would be better contained in a separate document?

***Response:***

*This is an issue which should be determined at the local level dependent on the geography of the area and the Mineral Authorities involved (County Councils and/or Unitary Authorities).*

Q39 Do you have any views on the utility of national and sub-national guidelines on future aggregates provision?

**Response:**

No.

### **Transitional arrangements and consequential changes**

Q40 Do you agree with the proposed transitional arrangements?

**Response:**

*The Borough Council does not have any comments on the proposed transitional arrangements.*

*In relation to the Housing Delivery Tests, it is considered that paragraphs 211 and 74 should be combined to provide clarity on this issue. As currently set out and worded, paragraph 74 and its associated footnotes are ambiguous and confusing. In addition, the Borough Council is concerned about the implementation of the Housing Delivery Test, prior to further, more considered, thoughts about housing delivery that will flow from the Letwin report and its conclusions.*

Q41 Do you think that any changes should be made to the Planning Policy for Traveller Sites as a result of the proposed changes to the Framework set out in this document? If so, what changes should be made?

**Response:**

No comment.

Q42 Do you think that any changes should be made to the Planning Policy for Waste as a result of the proposed changes to the Framework set out in this document? If so, what changes should be made?

**Response:**

No comment.

### **Glossary**

Q43 Do you have any comments on the glossary?

***Response:***

*Whilst the affordable rented tenure has largely replaced social rented, we do not want to dissuade the provision of social rented properties, and the removal of the social rented definition would send the wrong message, particularly noting that there is a need for this tenure.*

## Local Authority Organisational Consultation Response: Supporting housing delivery through developer contributions

Question 1 Do you agree with the Government's proposals to set out that:

- i. Evidence of local infrastructure need for CIL-setting purposes can be the same infrastructure planning and viability evidence produced for plan making?

**Response:**

Yes.

- ii. Evidence of a funding gap significantly greater than anticipated CIL income is likely to be sufficient as evidence of infrastructure need?

**Response:**

Yes.

- iii. Where charging authorities consider there may have been significant changes in market conditions since evidence was produced, it may be appropriate for charging authorities to take a pragmatic approach to supplementing this information as part of setting CIL – for instance, assessing recent economic and development trends and working with developers (e.g. through local development forums), rather than procuring new and costly evidence?

**Response:**

*Yes, for example, a review of values and costs may be all that is required.*

Question 2 Are there any factors that the Government should take into account when implementing proposals to align the evidence for CIL charging schedules and plan making?

**Response:** *It should be noted that there may be exceptions, for example, if a Local Plan is delayed and an authority wishes to bring their CIL Charging Schedule forward in advance of their Local plan.*

Question 3 Do you agree with the Government's proposal to replace the current statutory consultation requirements with a requirement on the charging authority to publish a statement on how it has sought an appropriate level of engagement?

**Response:**

*Yes. Although the formal two stage consultation is generally advisable, it is not always necessary and it is welcomed that this is being recognised to speed up the process for reviewing a CIL Charging Schedule.*

Question 4 Do you have views on how guidance can ensure that consultation is proportionate to the scale of any charge being introduced or amended?

**Response:** *It is considered that there should be no requirement for hard copies of consultation documents to be provided.*

Question 5 Do you agree with the Government's proposal to allow local authorities to pool section 106 planning obligations:

- i. Where it would not be feasible for the authority to adopt CIL in addition to securing the necessary developer contributions through section 106?

**Response:**

*Yes in part. The proposal to remove the S106 pooling restriction for CIL charging authorities is welcomed. However, it is considered that the proposal to remove the pooling restriction in certain circumstances only for non-charging authorities is overly complicating the matter.*

*The original objective of the pooling restriction was to encourage local authorities to introduce CIL. In areas where viability has allowed, the majority of local authorities have now introduced CIL. Would it not therefore be simpler to remove the S106 pooling restriction in its entirety?*

- ii. Where significant development is planned on several large strategic sites?

**Response:**

*Yes although further clarification would be required (see reply to Question 7). As set out above, this proposal is also considered to be overly complicating the matter.*

Question 6

- i. Do you agree that, if the pooling restriction is to be lifted where it would not be feasible for the authority to adopt CIL in addition to securing the necessary developer contributions through section 106, this should be measures based on the tenth percentile of average new build house prices?

**Response:**

*No. Judgements relating to whether authorities have house prices in the lowest 10% could be complex, and how would the regulations take into account changing house prices? There could also be a stigma attached to an area being declared as within this low value category, which could be detrimental to the growth and wellbeing of an area.*

*In addition, as the proposed removal of the pooling restriction would only last 3 years this would make forward planning for an authority very difficult, particularly as a large scheme would take longer than 3 years to development. The proposal set out in paragraph 102 and 106 is therefore considered likely to lead to greater uncertainty for both developers and local authorities.*

- ii. What comments, if any, do you have on how the restriction is lifted in areas where CIL is not feasible, or in national parks?

**Response:**

*No further comment.*

Question 7 Do you believe that, if lifting the pooling restriction where significant development is planned on several large strategic sites, this should be based on either: i. a set percentage of homes, set out in a plan, are being delivered through a limited number of strategic sites; or ii. all planning obligations from a strategic site count as one planning obligation?

**Response:**

*It would be difficult to set thresholds/define criteria and, as set out above, it is considered to be overly complicating already complex regulations, and is likely to lead to greater uncertainty thus have a negative effect on delivery.*

Question 8 What factors should the Government take into account when defining 'strategic sites' for the purposes of lifting the pooling restriction?

**Response:**

*No further comment.*

Question 9 What further comments, if any, do you have on how pooling restrictions should be lifted?

**Response:**

*It is considered that pooling restrictions should be lifted in their entirety.*

Question 10 Do you agree with the Government's proposal to introduce a 2 month grace period for developers to submit a Commencement Notice in relation to exempted development?

**Response:**

*Yes subject to the comment for Q11.*

Question 11 If introducing a grace period, what other factors, such as a small penalty for submitting a Commencement Notice during the grace period, should the Government take into account?

**Response:**

*If a grace period is introduced then there must be a significant financial penalty otherwise this will be viewed as an extended deadline only and could become a further burden on local*

*authorities in terms of CIL enforcement e.g. checking if developments have commenced, chasing notices etc.*

Question 12 How else can the Government seek to take a more proportionate approach to administering exemptions?

**Response:**

*It is strongly recommended that residential extensions and annexes become a mandatory exemption thus avoiding the costly administration associated with local authorities having to process such exemptions for no end financial gain.*

*It is considered that there are now too many exemptions. The consequence of this is that CIL operates in conflict with one of its original objectives of being introduced. This objective was to redress the balance whereby only major development contributes to infrastructure through S106 even though small and medium scale development has a cumulative impact on infrastructure. A low level standard tariff for all, as proposed in the CIL Review, would have assisted in this respect and would be relatively easy to administer.*

Question 13 Do you agree that Government should amend regulations so that they allow a development originally permitted before CIL came into force, to balance CIL liabilities between different phases of the same development?

**Response:**

*Yes although regulations must avoid a situation whereby a local authority would need to return any CIL receipts.*

Question 14 Are there any particular factors the Government should take into account in allowing abatement for phased planning permissions secured before introduction of CIL?

**Response:**

*It is considered that there should be a time limit restricting the length of the abatement/adjustment period e.g. within 2-3 years of commencement.*

Question 15 Do you agree that Government should amend regulations on how indexation applies to development that is both originally permitted and then amended while CIL is in force to align with the approach taken in the recently amended CIL regulations?

**Response:**

Yes.



Question 16 Do you agree with the Government's proposal to allow local authorities to set differential CIL rates based on the existing use of land?

**Response:**

*Yes, in principle the Borough Council has no objection to this being offered as an option. However, in practice this could be complex and impractical for the following reasons:*

- *Establishing existing uses on a case by case basis could be complex and time consuming prolonging the development process. There would need to be a standardised assessment approach to avoid lengthy developer disputes regarding the existing use(s) and rates applicable.*
- *Market responsive differential use rates would need a lot of evidence and authorities would end up with complex charging schedules with many different rates that could prove difficult to administer.*
- *Engagement with developers may prove difficult as they may not want to openly discuss existing use values of their land.*
- *It may be simpler to continue to rely on the existing ability to set rates based on geographical areas e.g. could have differential rates for greenfield and brownfield land.*
- *If this proposal is aimed at improving market responsiveness then it is suggested that this could be addressed enabling a quicker CIL Charging Schedule review process.*

Question 17 If implementing this proposal do you agree that the Government should:

- i. encourage authorities to set a single CIL rate for strategic sites?

**Response:**

*No comment as it is difficult to see how this would work in practice.*

- ii. for sites with multiple existing uses, set out that CIL liabilities should be calculated on the basis of the majority existing use for small sites?

**Response:**

*No comment as it is difficult to see how this would work in practice.*

- iii. set out that, for other sites, CIL liabilities should be calculated on the basis of the majority existing use where 80% or more of the site is in a single existing use?

**Response:**

*No comment as it is difficult to see how this would work in practice.*

- iv. what comments, if any, do you have on using a threshold of 80% or more of a site being in a single existing use, to determine where CIL liabilities should be calculated on the basis of the majority existing use?

**Response:**

*No comment as it is difficult to see how this would work in practice.*

Question 18 What further comments, if any, do you have on how CIL should operate on sites with multiple existing uses, including the avoidance of gaming?

**Response:**

*None.*

Question 19 Do you have a preference between CIL rates for residential development being indexed to either: a) The change in seasonally adjusted regional house price indexation on a monthly or quarterly basis; or b) The change in local authority-level house price indexation on an annual basis

**Response:**

*A change in the indexation on any basis shorter than annually would result in uncertainty for developers and unnecessary administration for local authorities; and it is considered preferable and more appropriate to index to the change in local authority level HPI as opposed to regional index figures.*

Question 20 Do you agree with the Government's proposal to index CIL to a different metric for nonresidential development?

**Response:**

*Yes. If residential development is linked to the regional house price index, this would not be appropriate or relevant for non-residential development.*

Question 21 If yes, do you believe that indexation for non-residential development should be based on:

- i. the Consumer Prices Index?

**Response:** *No*

- ii. a combined proportion of the House Price Index and Consumer Prices Index?

**Response:** *Yes although the regulations/guidance would need to ensure clarity and ease in respect of linking to any such indexation data source.*

Question 22 What alternative regularly updated, robust, nationally applied and publicly available data could be used to index CIL for non-residential development?

**Response:**

*Although the All in Tender Price index is readily available to authorities subscribing to BCIS, this may not be appropriate to use if HPI is used for residential. TPI is based on the cost of providing infrastructure as opposed to its value i.e. there would be different logic applied to the indexation applied for residential and non-residential uses.*

Question 23 Do you have any further comments on how the way in which CIL is indexed can be made more market responsive?

**Response:** *No further comment.*

Question 24 Do you agree with the Government's proposal to:

- i. remove the restrictions in regulation 123, and regulation 123 lists?

**Response:**

*Yes although it is suggested that guidance should require local authorities to set out in supplementary planning guidance what infrastructure would be sought through S106 and what would be CIL funded to avoid 'double dipping' and provide clarity for all concerned.*

- ii. introduce a requirement for local authorities to provide an annual Infrastructure Funding Statement?

**Response:**

*Yes*

Question 25 What details should the Government require or encourage Infrastructure Funding Statements to include?

**Response:**

*It is considered that the IFS would most logically be produced annually after publication of the CIL Annual Financial Report and confirmation of year end S106 finances. The IFS should set out the infrastructure priorities and planned delivery for the next 5 years in line with the local authority's Capital Programme, and set out how developer contributions from CIL and S106 will contribute to this. It should be aligned with the Infrastructure Delivery Plan of an authority and would require the ability to be easily amended to respond to changing needs. If the IFS is very focussed it could be used as an opportunity and tool to engage with delivery partners on particular projects.*

*The Borough Council would wish to comment on the proposed Infrastructure Funding Statement Template, together with the proposed standard S106 Summary Template and Open Data Monitoring Tool.*

Question 26 What views do you have on whether local planning authorities may need to seek a sum as part of section 106 planning obligations for monitoring planning obligations? Any views on potential impacts would also be welcomed.

**Response:**

*The Borough Council considers it regrettable that the draft planning practice guidance appears to not allow a local authority to seek any S106 monitoring contributions, even for*

*particularly complex planning obligations. Therefore, the suggestion in this consultation that local authorities will be able to seek S106 monitoring contributions is welcomed as monitoring complex planning obligations is costly and time consuming.*

Question 27 Do you agree that combined authorities and joint committees with strategic planning powers should be given the ability to charge a SIT?

**Response:**

*Yes although the terms upon which authorities can currently seek SIT are very restrictive.*

*Of particular interest to South Essex is the concept of a Strategic Infrastructure Tariff which would be capable of capturing the necessary contributions for strategic cross-border infrastructure of the kind desperately required in South Essex. While the Government has committed to allowing combined authorities and joint strategic planning committees to levy this tariff, it would clearly be in the interests of South Essex to allow the Joint Strategic Plan to be supported by such a strategic fund.*

*However, the Government has signalled that this will only be allowed to be raised (and spent) by either combined authorities or a statutory joint planning committee, established through Section 29 of the 2004 Planning and Compulsory Purchase Act. The latter would be the only option for South Essex but requires a Secretary of State Order to establish the committee and dissolve it. Whilst the need for strong fiscal accountability to manage, potentially significant funds, is acknowledged, the Government is asked to consider other suitable options, such as a Section 101 joint committee which are widely used within local government. Some flexibility around governance should be allowed especially where local authorities are preparing a statutory joint plan.*

*An alternative approach to SIT for South East Essex may be, if the pooling restriction were to be lifted without restriction (as some nearby authorities do not have CIL in place), to have a voluntary agreement to secure and pool funding from S106 agreements for a strategic infrastructure fund.*

*Notwithstanding the above, as an individual local authority the Borough Council would not wish to see the introduction of SIT prejudicing the authority's CIL rates (i.e. undermining them in terms of viability).*

Question 28 Do you agree with the proposed definition of strategic infrastructure?

**Response:**

*Yes in part (see below).*

Question 29 Do you have any further comments on the definition of strategic infrastructure?

**Response:**

*The Borough Council is of the view that 'strategic infrastructure' is satisfactorily defined in the first sentence of paragraph 151 although it may be appropriate to reference the fact that any such strategic infrastructure would be to support growth across the multi-authority strategic planning area. To define on the basis of the second sentence (fixed cost or size threshold) is not deemed appropriate due to significant variations between authorities.*

Question 30 Do you agree that a proportion of funding raised through SIT could be used to fund local infrastructure priorities that mitigate the impacts of strategic infrastructure?

**Response:**

Yes.

Question 31 If so, what proportion of the funding raised through SIT do you think should be spent on local infrastructure priorities?

**Response:**

*It is considered that this would most appropriately be agreed within strategic planning areas and not set nationally.*

Question 32 Do you agree that the SIT should be collected by local authorities on behalf of the SIT charging authority?

**Response:**

Yes.

Question 33 Do you agree that the local authority should be able to keep up to 4% of the SIT receipts to cover the administrative costs of collecting the SIT?

**Response:**

Yes.

Question 34 Do you have any comments on the other technical clarifications to CIL?

**Response:**

*It considered that any revised CIL regulations should provide clarity as to whether or not a commencement notice is required for a residential extension that is exempt. Regulation 42B(6) contradicts other guidance on the matter (including the [www.GOV.uk](http://www.GOV.uk) guidance that*

*states that Regulation 42B sets out that a commencement notice is not required for extensions).*

*There also appears to be an error in CIL Regulation 88(3)(a). It would seem logical that it should refer to Regulation 59A and 59F (as opposed to 59E).*