

### Technical Consultation on Implementation of Planning Changes

#### Policy Context

1. The proposed response is in accordance with the Council's vision and priorities set out in the Council Plan and Vision 2030, particularly in ensuring that Gateshead is able to benefit from new development and a range of excellent and affordable housing options through efficient and high quality services.

#### Background

2. It is important that the planning system supports delivery of the high quality new homes and supporting infrastructure that the country needs, and planning plays a huge role in helping to achieve sustainable development. These proposals are focused on streamlining and speeding up the planning system and supporting a general increase in housing delivery.
3. This consultation is seeking views on the proposed approach to implementation of measures in the Housing and Planning Bill, and some other planning measures. Responses to the consultation will inform the detail of the secondary legislation which will be prepared once the Bill gains Royal Assent. The proposals which have been set out cover the following key areas:
  - Chapter 1 - Changes to planning application fees
  - Chapter 2 - Enabling planning bodies to grant permission in principle for housing development on sites allocated in plans or identified on brownfield registers, and allowing small builders to apply directly for permission in principle for minor development
  - Chapter 3 - Introducing a statutory register of brownfield land suitable for housing development
  - Chapter 4 - Creating a small sites register to support custom build homes
  - Chapter 5 - Speeding up and simplifying neighbourhood planning and giving more powers to neighbourhood forums
  - Chapter 6 - Introducing criteria to inform decisions on intervention to deliver our commitment to get local plans in place
  - Chapter 7 - Extending the existing designation approach to include applications for non-major development
  - Chapter 8 - Testing competition in the processing of planning applications
  - Chapter 9 - Information about financial benefits
  - Chapter 10 - Testing competition in the processing of planning applications
  - Chapter 11 - Facilitating delivery of new state-funded school places, including free schools, through expanded permitted development rights

- Chapter 12 - Improving the performance of all statutory consultees
- Chapter 13 - Public Sector Equality Duty

### **Consultation**

4. The Cabinet Members for Environment and Transport have been consulted on the proposed response.

### **Alternative Options**

5. The options around the implementation of the proposed planning changes have been considered and discussed

### **Implications of Recommended Options**

#### **6. Resources**

**a) Financial Implications** – The Strategic Director, Corporate Resources confirms that there are no financial implications arising from this report.

**b) Human Resources Implications** – None.

**c) Property Implications** - None

7. **Risk Management Implications** – None.

8. **Equality and Diversity Implications** – There are no equality and diversity implications arising from this report

9. **Crime and Disorder Implications** – None.

10. **Health Implications** – None.

11. **Sustainability Implications** – There are no sustainability implications arising from the report.

12. **Human Rights Implications** – There are no human rights implications arising from this report.

13. **Area and Ward Implications** – No specific area or ward implications.

### **Background Information**

[Technical Consultation on implementation of planning changes \(February 2016\) \(DCLG\)](#)

## **ANNEX - PROPOSED RESPONSE TO CONSULTATION**

### **Chapter 1: Changes to planning application fees.**

**Question 1.1: Do you agree with our proposal to adjust planning fees in line with inflation, but only in areas where the local planning authority is performing well? If not what alternative would you suggest?**

1. The proposal to adjust fees in line with inflation is welcomed and significantly overdue. This would allow the much needed investment in resources (both at case officer level and through consultation expertise) that are required to ensure that planning applications are considered quickly.
2. However, if the fee increase is dependent on performance, then unintended consequences may occur. For example a council may make a negative decision within designated timeframes rather than explore solutions that could take longer but have a more positive outcome. This would not align to the government's growth agenda and would effectively cause the developer delay in the ultimate approval of planning permission. Another consequence could be that developers target their schemes to the LPAs with lower fees resulting in blighted areas with less growth.
3. Increasing lack of resources within LPA's would further add to the resource pressures currently faced making it difficult to deliver the Governments growth agenda. Perhaps it would be better if there were increases across the board, but potential for a partial refund if case not handled within a specific time period (subject to certain provisions of compliance)?

**Question 1.2: Do you agree that national fee changes should not apply where a local planning authority is designated as under-performing, or would you propose an alternative means of linking fees to performance? And should there be a delay before any change of this type is applied?**

4. No. If an LPA is under performing, then additional resources may be required to bring it up to speed not less. It is unlikely that the added pressure to deliver performance standards will result in the delivery of more/quicker planning approvals, particularly in the context of already under resourced planning services following Government budget cuts. There needs to be recognition that planning services need support not penalties.

**Question 1.3: Do you agree that additional flexibility over planning application fees should be allowed through deals, in return for higher standards of service or radical proposals for reform?**

5. Possibly, the risk remains that the perception with objectors that planning permission has been bought. Resources need to be in place before an authority can offer a higher standard of service. This would require significant investment in advance.

**Question 1.4: Do you have a view on how any fast-track services could best operate, or on other options for radical service improvement?**

6. A fast track process which follows on from a comprehensive pre app process where all that remains to be undertaken during the planning application is the statutory consultation process may be beneficial as it would encourage more significant engagement at the pre app phase of the development. However, the resources required for the pre app process would have to be paid for and sufficient time given to this part of the process, possibly through PPA agreements. There is also a concern regarding the transparency relating to such a process.

**Question 1.5: Do you have any other comments on these proposals, including the impact on business and other users of the system?**

7. If different providers are offering the planning processing service for different fees, but the LPA still retains the overall decision making power, a certain amount of checking work would still be required to either make delegated decisions or to present a case to planning committee. A fee would be required in order to fully resource this part of the process.
8. It is likely that, as with the building control services, approved providers would target the commercially lucrative applications leaving the applications with lower fees but significant work to the LPAs to deal with. For example during the PAS benchmarking exercise undertaken in 2012, it was clear that the householder application fee did not always cover the cost of the time required to consider the application given the often controversial nature of these applications with immediate neighbours. A critical mass of applications is required in order to be able to retain the expertise within a LPA or group of LPAs to be able to consider the wide range of different issues associated with applications. Without this the ability to consider all applications efficiently would be compromised.

## **Chapter 2: Permission in principle**

**Question 2.1: Do you agree that the following should be qualifying documents capable of granting permission in principle?**

**a) future local plans;**

**b) future neighbourhood plans;**

**c) brownfield registers.**

9. Gateshead Council considers that future local plans and future neighbourhood plans should be qualifying documents capable of granting permission in principle. However, the approach to Brownfield Registers in terms of consultation requirements and their overall status is different and therefore the Council believes that further clarification is required on this point, whilst this would also be subject to the robustness of the technical details consent stage.
10. We are keen to work with developers, landowners and communities in preparing a brownfield register (and are currently preparing a pilot brownfield register), and the Council has a strong track-record of delivering new housing on brownfield sites. We are also aware that the Government intends to ensure that 90% of suitable brownfield sites have planning permission for housing by 2020. Emerging guidance (within the

pilot brownfield register manual) suggests that sites included within brownfield registers should be subject to an assessment that is similar to the current approach adopted within Strategic Housing Land Availability Assessments. When preparing SHLAAs, LPAs are able to emphasise that the assessment provided in the SHLAA is separate to the determining of a planning application for development. As a result of this, preparation of SHLAAs is able to progress relatively smoothly, as it is based on a technical assessment of a site's merits, rather than the merits of a specific application. If brownfield registers are to act as qualifying documents the potential for challenge from interested parties will increase substantially, and may have the effect of hindering progress on these documents. A more flexible approach which enables LPAs to prepare a brownfield register separately to identifying sites to be granted PIP will enable the more timely preparation of key evidence, and support the delivery of new housing.

**Question 2.2: Do you agree that permission in principle on application should be available to minor development?**

11. The Council feels this is unlikely to be taken up as minor development will not attract the level of investment required to gain certainty that the principle is acceptable. There are currently very few outline applications for minor development. (4 out of 8 received in 2015)

**Question 2.3: Do you agree that location, uses and amount of residential development should constitute 'in principle matters' that must be included in a permission in principle? Do you think any other matter should be included?**

12. The amount of residential development is very difficult to quantify without significant amounts of background information such as drainage methodology, ecology, highway considerations, or topography. There is a risk that inclusion of the amount of development could fetter good urban design. Requiring this information at PIP stage would negate the benefit of permission in principle. However, the location and uses allowed in principle are no stronger than a normal allocation within a local or neighbourhood plan.
13. There may also be other in-principle issues which need to be considered depending on the circumstances or the requirements of existing Local Plan policies. For example, access and flood related requirements, and for larger sites, phasing linked to the provision of related infrastructure. For larger growth sites, including those in split ownership or with more than one developer, as allocated in the Gateshead and Newcastle Core Strategy (March 2015), there is a requirement for those sites to be subject to an approved masterplan and phasing plan. So flexibility is required to reflect individual site circumstances.
14. The Council considers that if the technical details are not acceptable for justifiable reasons, the local planning authority could justify a refusal at the technical details stage, and the applicant would have the right of appeal.

**Question 2.4: Do you have views on how best to ensure that the parameters of the technical details that need to be agreed are described at the permission in principle stage?**

15. Gateshead Council do not have views on how best to ensure that the parameters of the technical details that need to be agreed are described at the permission in principle stage.
16. In regards to location, we agree that this would be a red line plan drawn to a scale that clearly identifies the location and parameters of the site. Moreover, in regards to uses, we consider that permission in principle should be available to be given for proposals that are housing led. Retail, community and commercial uses that are compatible with a residential use can also be granted permission in principle where they form part of housing led development. Additionally, in regards to amount of residential development, we agree that in order to achieve a good balance between ensuring upfront certainty and flexibility, it is proposed that permission in principle will specify a minimum and maximum level of residential development that is acceptable.
17. As stated above, Gateshead Council is of the view that there could be wider range of in-principle issues that need to be addressed depending on the individual site circumstances, and/or to reflect the requirements of existing Local Plan policies. It is likely that there would be a need to have such a significant amount of detail at the technical approvals stage that would render the pip worthless as details of the impact of the development such as highways, ecological mitigation, flood/drainage solutions could all add significant uncertainty to the costs of the development and would have the potential to render a scheme unviable..

**Question 2.5: Do you have views on our suggested approach to a) Environmental Impact Assessment, b) Habitats Directive or c) other sensitive sites?**

18. Gateshead Council consider that permission in principle on allocations or applications may only be granted where the local planning authority already has sufficient information about the proposed development on the sites to be able to screen it and as a result of screening the project, the authority determines that an environmental impact assessment is not required. The PIP process should not apply to a site where an ES is required. Where a site would affect a protected habitat or other sensitive site the required assessment would add significant cost to the PIP process. In addition, however, a site could be significantly constrained by other issues such as protected species, flooding, heritage or contamination, where the outcome of an assessment would have a significant impact on the use, quantum, viability or deliverability of the scheme.
19. Also, in relation to the Habitats Directive, we agree that the requirements of the Habitats Directive will also need to be met where they apply. The Habitats Directive provides protection for Special Areas of Conservation and Special Protection Areas. Plans or projects which are likely to have a significant effect on either of these areas, but are not directly connected with or necessary to the management of that area, must be subject to an appropriate assessment of its implications for the site. A plan or project may only proceed if it will not adversely affect the integrity of the site concerned.

**Question 2.6: Do you agree with our proposals for community and other involvement?**

20. Gateshead Council welcomes the proposals for community and other involvement, in particular the proposal that local authorities can carry out further

consultation on technical details consents with such interested persons as they consider appropriate. There is a risk that the community will request, detailed information about the scheme during any application for PIP which will not be available until the technical details stage. This is likely result in significant local objections to PIP applications which would have a significant impact on LPA resources when responding to enquiries and taking cases to Committee.

**Question 2.7: Do you agree with our proposals for information requirements?**

21. No. insufficient information would be available under the proposed submission to give a considered view about quantum of development. For technical details stage it is likely that a design and an impact assessment would be sufficient. However, it is not clear how contributions to infrastructure and ongoing maintenance of the mitigation measures would be submitted.

**Question 2.8: Do you have any views about the fee that should be set for a) a permission in principle application and b) a technical details consent application?**

22. Gateshead Council considers that the fee to be set should be consistent with similar types of application in the planning system – at the very least the fees should meet the cost of a full permission. For technical details following a local plan PIP, the cost to consider the technical details against the council's allocation assumptions would be greater than if the applicant had made a PIP application.
23. The benefits of obtaining a PIP such as the certainty of the principle of the development and the reduced requirement for information at the technical details stage should be reflected in the cost.
24. The resource implications for LPAs to grant PIPs (either at allocation or on Application) should be fully reimbursed through the technical details stage.

**Question 2.9: Do you agree with our proposals for the expiry of on permission in principle on allocation and application? Do you have any views about whether we should allow for local variation to the duration of permission in principle?**

25. The Council agrees that permission in principle can expire after five years, but only provided that it can be renewed by application without the need for a review of the plan. A review of the Plan may not be timely or a desirable and effective use of resources and may be delayed in delivery.

**Question 2.10: Do you agree with our proposals for the maximum determination periods for a) permission in principle minor applications, and b) technical details consent for minor and major sites?**

26. There could still be a significant amount of technical detail to consider and experts to consult. If the expectation would be to negotiate throughout this

process to achieve an acceptable scheme, then there is a risk that there is insufficient time in 5 or 10 weeks to do this

### **Chapter 3: Brownfield register**

#### **Question 3.1: Do you agree with our proposals for identifying potential sites? Are there other sources of information that we should highlight?**

27. Yes, Gateshead Council agrees with the proposals for identifying potential sites. . The proposals are in line with actions Gateshead is currently investigating to help bring forward sites in the Borough.

#### **Question 3.2: Do you agree with our proposed criteria for assessing suitable sites? Are there other factors which you think should be considered?**

28. Yes, Gateshead Council agrees with the proposed criteria for assessing suitable sites. We will use the National Planning Policy and Planning Practice Guidance in regards to deciding whether to include a site on the register. We will also adopt a positive, proactive approach and consider both large and small sites, and we will only reject potential sites which have no realistic prospect of being suitable for new housing. Moreover, we aim to seek suggestions for smaller sites from the public and other interested parties and include these sites in our registers whenever possible because of their valuable contribution to overall housing supply. Additionally, we will ensure that sites are suitable for residential use and free from constraints that cannot be mitigated however, the Council is of the view that the register should not include sites that are subject to constraints that cannot be mitigated.

#### **Question 3.3: Do you have any views on our suggested approach for addressing the requirements of Environmental Impact Assessment and Habitats Directives?**

29. Gateshead Council considers that it would be a good idea in some cases to use the environmental assessment undertaken during the preparation of the local plan to assess the likely environmental effects of the register. We will only proceed with a plan or project if it will not adversely affect the integrity of the site concerned. We understand that it would be inappropriate for a site to be placed on the register if its development would be prohibited by the Habitats Directive.

#### **Question 3.4: Do you agree with our views on the application of the Strategic Environment Assessment Directive? Could the Department provide assistance in order to make any applicable requirements easier to meet?**

30. Yes, Gateshead Council agrees with the views on the application of the Strategic Environment Assessment Directive.

#### **Question 3.5: Do you agree with our proposals on publicity and consultation requirements?**

31. Gateshead Council broadly agrees with the proposals on publicity and consultation requirements.



**Question 3.6: Do you agree with the specific information we are proposing to require for each site?**

32. Gateshead Council considers that the information required will be key to improving availability and transparency, however the task of ensuring all relevant information is provided within the suggested time frame is onerous. Gateshead Council is part of the brownfield register pilot coordinated by DCLG. We understand that requirements for specific information to be published as part of the brownfield register are yet to be finalised, and will be informed by feedback from the LPAs involved in the brownfield register pilot. Of the information identified in the technical consultation document (paragraph 3.28), Gateshead Council considers that while a site reference number will assist in identifying sites, the creation/identification of a UPRN for each site in the register is likely to be an onerous task for LPAs to carry out. Up to date information on public ownership may also be difficult to obtain, and an approach which simply specifies whether a site is in public/private/unknown ownership would therefore be more appropriate.

**Question 3.7: Do you have any suggestions about how the data could be standardised and published in a transparent manner?**

33. We will publish our brownfield registers online on our own local Council website, in an agreed standard form, as we are required to meet 'Open Data' standards.

**Question 3.8: Do you agree with our proposed approach for keeping data up-to-date?**

34. Yes, Gateshead Council agrees with the proposed approach for keeping data up-to-date. We will review our stock of brownfield land and its permission status annually if required and as new sites become available time to time. As part of this we recognise that a review and update of the information on sites already in registers, and the addition of new sites that have been identified and assessed as suitable will be necessary. This also includes sites identified by the public, developers and others on a voluntary basis. However, Government should be mindful of the considerable staff resources required for this exercise to be done comprehensively. It is not realistic or proportionate to expect a full review more often than annually, and the ability to do it annually will depend on the resources available to local authorities.

**Question 3.9: Do our proposals to drive progress provide a strong enough incentive to ensure the most effective use of local brownfield registers and permission in principle?**

35. Gateshead Council agree with the drive to make progress in getting permission for housing in place on suitable brownfield land, in particular through entering sites on our register so that those sites can gain a grant of permission in principle. We are committed to ensure that the Government's wishes to ensure that 90% of suitable brownfield sites have planning permission for housing by 2020 have been achieved. Ensuring land is detailed on the register is one aspect but whether this will drive progress is questionable. Many of the sites identified will still require further site investigation and remediation work to be carried out, which will remain the main reason why the sites fail to come forward for development.

**Question 3.10: Are there further specific measures we should consider where local authorities fail to make sufficient progress, both in advance of 2020 and thereafter?**

36. There are no further specific measures that Gateshead Council feels should be considered where local authorities fail to make sufficient progress, both in advance of 2020 and thereafter. Will there be specific measures carried out by central government to help bring forward sites where Local Authorities have made sufficient progress and have planning permission in place, however the sites have not been developed due to viability constraints?

**Chapter 4: Small sites register**

**Question 4.1: Do you agree that for the small sites register, small sites should be between one and four plots in size?**

37. Gateshead Council broadly agrees that for the small site register, small sites should be between one and four plots in size. However, this would be ok for individual self-builders but will not meet the needs of either providing serviced plots to meet demand on the register or for group build. A minimum threshold could also be 10 as this falls well below the optimal site yield of small/medium housebuilders.

**Question 4.2: Do you agree that sites should just be entered on the small sites register when a local authority is aware of them without any need for a suitability assessment?**

38. Although we do not have a specific objection to the proposed approach of including sites in the small sites register regardless of their actual suitability for housing development, we do note that this approach risks making the small sites register's value as a planning tool almost worthless. Without any assessment of suitability the small sites register would effectively be a forum for developers to promote their sites, rather than a planning tool. The proposed approach would also mean that LPAs will find it difficult to make an accurate and realistic assessment of potential capacity of small sites in their area. In this respect, our response to question 4.3 identifies some categories of land which we think should be excluded from the small sites register.

**Question 4.3: Are there any categories of land which we should automatically exclude from the register? If so what are they?**

39. Yes, Gateshead Council would like to exclude sites from the register which we deem unsuitable for development, including greenfield sites in the Green Belt, and sites in locations which the Council deems wholly unsuitable for residential development.

**Question 4.4: Do you agree that location, size and contact details will be sufficient to make the small sites register useful? If not what additional information should be required?**

40. No, Gateshead Council does not agree that location, size and contact details will be sufficient to make the small sites register useful. We consider that the minimum information should include site plans that are readily available at relatively low cost and therefore would not constitute a burden for the landowner. Site plans will be essential for LPAs in understanding the extent of a site.

## Chapter 5: Neighbourhood planning

### **Question 5.1: Do you support our proposals for the circumstances in which a local planning authority must designate all of the neighbourhood area applied for?**

41. Gateshead Council broadly supports the proposed circumstances in which we must designate all of the neighbourhood area applied for. We understand that the circumstances proposed are when a parish council applies for the whole of the area of the parish to be designated as a neighbourhood area, or applies to enlarge an existing designation of part of the parish to include the whole of the parish area; or in other cases, a local planning authority has not determined an application for designation of a neighbourhood area within the current time periods.

### **Question 5.2: Do you agree with the proposed time periods for a local planning authority to designate a neighbourhood forum?**

42. Gateshead Council agrees broadly with the proposed time periods for a local planning authority to designate a neighbourhood forum, and would endeavour to reach a decision on an application to designate a neighbourhood forum within 13 weeks subject to the necessary information being provided...

### **Question 5.3: Do you agree with the proposed time period for the local planning authority to decide whether to send a plan or Order to referendum?**

43. Yes, Gateshead Council broadly agrees with the proposed time period for the local planning authority to decide whether to send a plan or Order to referendum.

### **Question 5.4: Do you agree with the suggested persons to be notified and invited to make representations when a local planning authority's proposed decision differs from the recommendation of the examiner?**

44. Gateshead Council broadly agrees with the suggested persons to be notified and invited to make representations when a local planning authority's proposed decision differs from the recommendation of the examiner.

### **Question 5.5: Do you agree with the proposed time periods where a local planning authority seeks further representations and makes a final decision?**

45. The Council has no comments on this issue.

### **Question 5.6: Do you agree with the proposed time period within which a referendum must be held?**

46. The Council has no comments on this issue.

### **Question 5.7: Do you agree with the time period by which a neighbourhood plan or Order should be made following a successful referendum?**

47. The Council has no comments on this issue.

**Question 5.8: What other measures could speed up or simplify the neighbourhood planning process?**

48. There are no other measures that Gateshead Council considers could speed up or simplify the neighbourhood planning process.

**Question 5.9: Do you agree with the proposed procedure to be followed where the Secretary of State may intervene whether a neighbourhood plan or Order should be put to a referendum?**

49. No, the Council does not agree with the proposals or timescales for intervention by the Secretary of State. They fail to recognise the complexity of some of the issues which could have arisen, which might require consideration of detailed evidence and potentially consultation of statutory bodies and other specialist organisations. Nor does the Council agree with the principle of such intervention, which fails to give due account to local democratic accountability. It is envisaged that there would be a remedy through the courts where a local authority has behaved unreasonably. However, if the Secretary of State is to have powers to intervene, the timescale allowed should be much longer. It is noted that the consultation states that cases where this would be expected to arise are “extremely rare”.

**Question 5.10: Do you agree that local planning authorities must notify and invite representations from designated neighbourhood forums where they consider they may have an interest in the preparation of a local plan?**

50. Yes, Gateshead Council agrees that local planning authorities must notify and invite representations from designated neighbourhood forums where they consider they may have an interest in the preparation of a local plan.

## **Chapter 6: Local plans**

**Question 6.1: Do you agree with our proposed criteria for prioritising intervention in local plans?**

51. There is insufficient information in the consultation document on how under-delivery and high housing demand will be defined in the absence of an up-to-date local plan. The Council is concerned that short timescales may produce pressure to minimise local consultation, and that commissioning of third parties reduces democratic accountability, reduces cost-effectiveness and reduces the contribution which can be made to plan-making by experienced local authority officers with detailed local knowledge. The Council is also concerned that continuing and worsening under-resourcing of local authorities increases the likelihood that insufficient resources will be available to deliver plans in a timely fashion.
52. We consider that the potential for DCLG to intervene in plan making will actually do little to support Councils in reaching a decision to adopt a local

plan document. The plan-making process should be one which results in a Local Plan which addresses local issues as identified through robust evidence, and also has support from the community such that it can be endorsed by the Council's elected members. The proposals for intervention by the secretary of state appear to contain little that would improve performance in these matters. We consider that a more effective approach, in terms of the resources of LPAs and of DCLG, would be to support existing LPA functions by providing clear guidance and support from services such as the Planning Advisory Service.

**Question 6.2: Do you agree that decisions on prioritising intervention to arrange for a local plan to be written should take into consideration a) collaborative and strategic plan-making and b) neighbourhood planning?**

53. The Council has no comments on this issue.

**Question 6.3: Are there any other factors that you think the government should take into consideration?**

54. No, Gateshead Council does not have any other factors that we think the government should take into consideration.

**Question 6.4: Do you agree that the Secretary of State should take exceptional circumstances submitted by local planning authorities into account when considering intervention?**

55. Yes, Gateshead Council agrees that the Secretary of State should take exceptional circumstances submitted by local planning authorities into account when considering intervention. We think it is important that we would be given an opportunity to explain any exceptional circumstances which, in our view, would make intervention at the proposed time unreasonable.

**Question 6.5: Is there any other information you think we should publish alongside what is stated above?**

56. Other than the information stated above, there is no other information which Gateshead Council thinks should be published.

**Question 6.6: Do you agree that the proposed information should be published on a six monthly basis?**

57. The Council would question the resource implications of this proposal and considers that annually would be.

## **Chapter 7: Expanding the approach to planning performance**

**Question 7.1: Do you agree that the threshold for designations involving applications for non-major development should be set initially at between 60-70% of decisions made on time, and between 10-20% of decisions overturned at appeal? If so what specific thresholds would you suggest?**

58. The impact of setting time based decision targets is that decision will be made to refuse permission within the statutory timeframe rather than encouraging discussion and amendments where a positive solution could be found given more time. The ability to have PPA's and Extensions of Time to add significant value, allowing time for discussion and amendments. However, I am aware of examples where applicants have refused to agree to an extension of time unless the LPA agrees to concede a planning issue. This is obviously not the improvement to the planning process intended by this threshold for designation.
59. This LPA has a very limited number of major or county matters applications that might be dealt with in any given two year period. County matters may be just over the threshold of 2 decisions per year but one significant and complex and locally controversial landfill application could mean designation when you may be unlikely to get another of that scale for several years. With PPA's and extension of time applications, most authorities should be able to meet the 60% standard for majors.
60. However, as many applicants for minor applications are less experienced in the planning process, these can take longer to reach a positive conclusion, particularly when negotiations or amendments are required. Therefore there is a risk that including minor applications into the threshold for designation could lead to more refusals and discourage lengthy discussions to find solutions.
61. It is considered that 60% target gives a good indication that the LPA is making the majority of its decisions in good time but also allows sufficient leeway to enter into discussions to gain approval more quickly. This will also allow development to commence more quickly than if a revised application process is necessary.
62. The appeal target is a crude indication of the quality of the decisions being made. However, the Council does consider there to be any better way of making this assessment without a more comprehensive assessment of decisions made across the LPA. However, the differences between the decisions that PINS are able to make and those of the LPA would mean that the number of overturns are falsely represented. Often the consideration of a case is subjective and finely balanced. As such, a small number of overturned decisions by PINS do not represent a failure in the quality of the decision making process of that Authority. As such a reduction of the designation threshold is not considered to be appropriate.
63. Considering the very few numbers of appeals that a good authority should have, a small number of appeals being overturned could make a significant difference to this standard. In addition PINS have the ability to make split decisions where an LPA cannot and these partial approvals would count towards the standard. Another example recently experienced was for an appeal against conditions, where an inspector agreed with the council's decision to impose those conditions, but changed the standard 3 years to implement the approval to take account of the appeal period. This was counted as an allowed appeal and contributed towards the designation

threshold. Therefore the ability for an LPA to explain these anomalies as an exceptional circumstance is essential whatever the threshold

**Question 7.2: Do you agree that the threshold for designations based on the quality of decisions on applications for major development should be reduced to 10% of decisions overturned at appeal?**

64. No see the answer to question 7.1.

**Question 7.3: Do you agree with our proposed approach to designation and de-designation, and in particular?**

65. No see the answer to question 7.1.

**Question 7.4: Do you agree that the option to apply directly to the Secretary of State should not apply to applications for householder developments?**

66. The Council sees no reason why householder development should be considered any differently to other applications. These can often have as many objections or be as controversial as any other applications.

## **Chapter 8: Testing competition in the processing of planning applications**

67. The proposed introduction of competition in the processing of planning applications is considered to be highly controversial. To ensure local accountability in planning decisions, LPA's have to maintain responsibility to make decisions. There is the potential for approved planning services to process applications, but without local knowledge and understanding of the area, the policies and the relationship with local statutory consultees, it would be unclear how competition would have any benefits over the LPA to deliver the strategic growth identified in the Local Plan. It would also be difficult to demonstrate that an approved provider is giving an independent assessment of an application. LPAs are often accused of bias towards developers and this would be increased significantly if the recommendation would be made by another party paid for by the developer. LPAs have the established transparency of process to give all parties to a planning application the confidence that balanced and impartial due consideration will be given to any application.

68. This council has also experienced the introduction of competition in the dealing with Building regulations applications. This is clearer as BC legislation and policy is laid out in national regulations which, whilst open to a small degree of interpretation, do not have the same subjective assessment that many aspects of planning have. The local knowledge of the area and policies is key to weighing up and balancing the considerations of any planning application.

**Question 8.1: Who should be able to compete for the processing of planning applications and which applications could they compete for?**

69. There is the potential for very significant applications or where a specific or unusual area of expertise is required such as for major Minerals or county matters sites. However, the decision should still be made by the LPA.

**Question 8.2: How should fee setting in competition test areas operate?**

70. The fees must be at a competitive level to the LPA and the benefits realised through speed of decision or area of specific expertise. National fees are universal and a private company undercutting the national fees would not be appropriate.

**Question 8.3: What should applicants, approved providers and local planning authorities in test areas be able to?**

71. The fees must be at a competitive level to the LPA and the benefits to the applicant realised through speed of decision or area of specific expertise. National fees are universal and a private company undercutting the national fees would not be appropriate.
72. This Council has developed SLA's with local statutory and non-statutory consultees to establish when to consult and this would be a requirement for any other Planning service provider to ensure that all applications are being considered on a level playing field.
73. If an approved provider undertakes the validation, consultation, consideration and negotiation of amendment stages of an application producing a report with a recommendation, it is likely that some form of checking would be required for a case to be signed off or approved by the LPA either through delegation to an officer or via planning committee. Therefore a fee would be required to enable the LPA to resource this.
74. Further resources would be required for the public to access details/records of the planning application to enable fair and transparent consultation process.
75. The LPA would have to make available details of the historic records for the site, policy background and evidence of constraints for the site. In addition the information submitted with an application should be made available to the LPA to supplement their records.
76. LPA officers build a relationship with, residents groups, consultees, developers and councilors all of which aid the process of considering and delivering development. It is difficult to establish what another provider would add to this process.

**Question 8.4: Do you have a view on how we could maintain appropriate high standards and performance during the testing of competition?**



77. Regular auditing of applications/recommendations received. Possibility that LPA's have the ability to call in an application if it fails to consider any particular issue appropriately.
78. It is likely that Committees will require a check of the reports by a Local Officer in order to ensure that sufficient local weight has been given to the relevant issues. It is possible that reports from a provider would be more greatly scrutinized by Committee.

**Question 8.5: What information would need to be shared between approved providers and local planning authorities, and what safeguards are needed to protect information?**

79. The LPA receives many enquiries from members of the public seeking information about applications. Whilst this is being directed as far as possible onto the council's website, there are a number of people who require explanation of the application to be able to understand technical plans and documents. If the Council is expected to maintain this role resources would be required to facilitate this. Public expectation that would be able to find information about all applications within the LPA area on the council's planning website and maintain an up to date record on back office computer systems and DMS.
80. This is a two way process of information sharing which is possible if there were one provider operating in an area. However, it is likely that several providers would vie for applications and the additional resources required to keep all parties up to date with information required to consider applications appropriately would significantly outweigh any benefits of quicker decisions.
81. The level of information held in a Local Authority to give evidence and background to the consideration of planning issues is significant and not necessarily in a format that would be easily shared with a provider. In addition, if a provider is another authority or a private consultancy, it would be difficult to ensure that adequate data security of both private information and locally sensitive data could be maintained.
82. Most LPAs have a briefing process for Committee with very tight timeframes for delivery to meet a certain committee. The reports have been streamlined into a specific format to make the process as efficient as it can be. The additional checks required for approved providers will add unnecessary burdens onto the application which is likely to outweigh any time saved by the provider.

**Question 8.6: Do you have any other comments on these proposals, including the impact on business and other users of the system?**

83. Significant likelihood that there will be duplication of process or checking of the process undertaken by the approved provider. Local knowledge of local constraints and policies is essential in considering applications which would require input from LPA's as an additional consultee. BC is different as assessing proposals against national standards which apply to all areas.

Consultee relationships are already in place to have a strategic overview growth in the local area. There is uncertainty as to how consistent decision making would be ensured?

84. The introduction of competition to planning decision making would reduce the income for LPAs at a time when they are trying to be self-sufficient. The likely applications that would appeal to an approved provider would be the larger applications which generate significant fees leaving the LPA to use fees from smaller applications to fund its wider service such as enforcement and heritage work, the democratic process and legal processes such as S106.
85. There is a risk that these proposals would erode consistency and transparency in the decision making process.

### **Chapter 9: Information about financial benefits**

#### **Question 9.1: Do you agree with these proposals for the range of benefits to be listed in planning reports?**

86. No there would be significant additional work to identify this information with little likely difference to the outcome of the application. The council already sets out the benefits associated with S106 and will in the near future do the same with CIL when this is implemented.
87. Council tax and rates information could only be an estimate and new homes bonus would be dependent on the number of houses demolished in the year that the new houses approved were completed so an accurate value for new homes bonus could not be given at decision stage.
88. Perception from objectors that developer is buying planning permission as is already the case when s106 contributions are reported.

#### **Question 9.2: Do you agree with these proposals for the information to be recorded, and are there any other matters that we should consider when preparing regulations to implement these measures?**

89. No see response to 9.1 above and concern regarding the impact of such proposals on already stretched Council resources.

### **Chapter 10: Section 106 dispute resolution**

90. The Council is not aware of any significant disputes relating to the requirements of a S106 contribution that have led to significant delays in the resolution of an s106 agreement or planning application. The council has published a clear SPD guidance note which sets out the Councils requirements for S106 contributions and how it will determine the level of contributions required. However, if a dispute were to arise the dispute resolution proposed would be appropriate.

**Question 10.1: Do you agree that the dispute resolution procedure should be able to apply to any planning application?**

91. The Council agrees.

**Question 10.2: Do you agree with the proposals about when a request for dispute resolution can be made?**

92. The Council agrees.

**Question 10.3: Do you agree with the proposals about what should be contained in a request?**

93. The Council agrees.

**Question 10.4: Do you consider that another party to the section 106 agreement should be able to refer the matter for dispute resolution? If yes, should this be with the agreement of both the main parties?**

94. No this is likely to result in malicious requests. If a LPA is sufficiently concerned about a third party interest, it would have the ability to make the decision to enter the process.

**Question 10.5: Do you agree that two weeks would be sufficient for the cooling off period?**

95. The Council has no views on this question.

**Question 10.6: What qualifications and experience do you consider the appointed person should have to enable them to be credible?**

96. It is likely that many disputes would relate to viability and the scheme's ability to accommodate the level of the contributions. Expertise in development finance is key.

**Question 10.7: Do you agree with the proposals for sharing fees? If not, what alternative arrangement would you support?**

97. No the applicant should pay the fee if they do not agree with what has been required by the LPA. If LPA's are required to set out in an SPD what their contributions are and this goes through a consultation process, then the applicant will have to make a case about why they do not want to accord with the SPD.

**Question 10.8: Do you have any comments on how long the appointed person should have to produce their report?**

98. The Council has no comments in response to this question.

**Question 10.9: What matters do you think should and should not be taken into account by the appointed person?**

99. The LPA's guidance/SPD. Any viability evidence and the LPAs consultee advice on the submitted viability evidence.

**Question 10.10: Do you agree that the appointed person's report should be published on the local authority's website? Do you agree that there should be a mechanism for errors in the appointed person's report to be corrected by request?**

100. As any viability information may include commercially sensitive information, it is accepted that some considerations of the process will need to be kept confidential, however, a resolution report would have to be produced which summarises the reasons why a decision/recommendation is being made without disclosing financial information.

**Question 10.11: Do you have any comments about how long there should be following the dispute resolution process for a) completing any section 106 obligations and b) determining the planning application?**

101. No clear view as long as the statutory targets for considering applications is halted for any case that is referred for dispute resolution;

**Question 10.12: Are there any cases or circumstances where the consequences of the report, as set out in the Bill, should not apply?**

102. No

**Question 10.13: What limitations do you consider appropriate, following the publication of the appointed person's report, to restrict the use of other obligations?**

103. None

**Question 10.14: Are there any other steps that you consider that parties should be required to take in connection with the appointed person's report and are there any other matters that we should consider when preparing regulations to implement the dispute resolution process?**

104. No

## **Chapter 11: Permitted development rights for state-funded schools**

**Question 11.1: Do you have any views on our proposals to extend permitted development rights for state-funded schools, or whether other changes should be made? For example, should changes be made to the thresholds within which school buildings can be extended?**

105. The Council has no comments in response to this question.

**Question 11.2: Do you consider that the existing prior approval provisions are adequate? Do you consider that other local impacts arise which should be considered in designing the right?**

106. The extension of permitted development rights would result in a number of temporary uses for schools in areas where these are not appropriate and would have a detrimental impact on highways safety or residential amenity.

## **Chapter 12: Changes to statutory consultation on planning applications**

**Question 12.3: What are the benefits and/or risks of setting a maximum period that a statutory consultee can request when seeking an extension of time to respond with comments to a planning application?**

107. The Council has no comments in response to this question.

**Question 12.4: Where an extension of time to respond is requested by a statutory consultee, what do you consider should be the maximum additional time allowed? Please provide details.**

108. The Council has no comments in response to this

## **Chapter 13: Public Sector Equality Duty**

**Question 13.1: Do you have any views about the implications of our proposed changes on people with protected characteristics as defined in the Equalities Act 2010? What evidence do you have on this matter? Is there anything that could be done to mitigate any impact identified?**

109. The Council has not identified any adverse impacts of the changes which are the subject of this consultation on people with protected characteristics under the Equalities Act.

**Question 13.2 Do you have any other suggestions or comments on the proposals set out in this consultation document?**

110. The Council has no further comments to make at this