

# Appendix 1: Tewkesbury Borough Council Planning White Paper Response

## PILLAR ONE: Planning for Development

**Question 1: What three words do you associate most the planning system in England?**

- Inconsistent
- Slow
- Complex

**Question 2: Do you get involved with planning decisions in your local area?**

Yes – we are the Local Planning Authority

**Question 3: Our proposals will make it much easier to access plans and contribute your views to planning decisions. How would you like to find out about plans and planning proposals in the future?**

Not applicable

**Question 4: What are your top three priorities for planning in your local area?**

- Infrastructure
- Affordability
- Design

**Question 5: Do you agree that Local Plans should be simplified in line with our proposals?**

The proposed approach would front-load the decision-making process by increasing the role of plans in setting out more detailed expectations for development within certain areas depending on their designation under the three categories. This will add certainty to what development will be allowed and where. It could also make the decision-making process quicker as a result.

It is still considered that flexibility for changing circumstances, following adoption of plans, is important and something that may be lost through the proposed approach.

There is concern over how this proposal relates to Proposal 8 and the expectations for local plans to be delivered within a 30-month period and particularly the 12-month period for drafting the plan and establishing the evidence base. Front-loading the plan making process will mean more detail and evidence will need to go into the designation of the land and in

setting out exactly what development is appropriate in each, especially for Growth Areas where outline planning permission would be granted. While this may lead to quicker decision making, it does increase the amount of resource and time needed at the plan making stage.

The examination process and scrutiny from the wider public and development industry may also be lengthened and increased under this proposal. This is due to the precision that plans will need to provide in guiding development. There is concern over the potential lack of flexibility for subsequent applications following adoption.

**Question 6: Do you agree with our proposals for streamlining the development management content of Local Plans, and setting out general development management policies nationally?**

The Borough Council can see the merit of not repeating national policies within local plans and there would also be benefits in expediting the plan making process if local plans were streamlined having regard to general development management policies.

However, it is difficult to see how this could be achieved while also ensuring that the high-quality development that the White Paper aspires to, that respects regional and local characteristics, is delivered. Local communities should play a role in how development happens in their areas (e.g. through design codes and/or locally specific policies) however in reality, it is difficult to understand how this could effectively work within the time frames envisaged in the white paper (e.g. only seven neighbourhood plans are in place in the Tewkesbury Borough area since the 2011 Localism Act came into force) and it can be difficult for some parts of the community to engage in this process.

In view of this, there is a danger that high quality, locally specific design won't be achieved, and the system will instead deliver more generic design that relies upon national policy. National scale policies will not be able to reflect specific local characteristics (e.g. agricultural diversification, conversions, rural enterprises) if those members of the local community aren't engaged with the policy making process.

**Question 7a: Do you agree with our proposals to replace existing legal and policy tests for Local Plans with a consolidated test of “sustainable development”, which would include consideration of environmental impact?**

It is agreed that the current Sustainability Appraisal system can be unwieldy, bureaucratic and not very accessible. Therefore, proposals to simply and streamline this process and to improve its overall transparency are supported. However, it is critical that a new system is still able to robustly test plan proposals for their sustainability and assess the environmental impacts. There is a real risk that the proposals would remove critical environmental safeguards and the need to satisfy legal requirements. Short cutting these considerations in the name of expediting plan making would be a retrograde step. This will be even more important if the local plan process will grant permission through identifying growth or renewal areas, as the environmental considerations that would currently be assessed in detail through the application process will now have to be dealt with through the plan making process.

It is also considered that any new test must continue to consider social and economic sustainability as well as environmental.

**Question 7b: How could strategic, cross-boundary issues be best planned for in the absence of a formal Duty to Cooperate?**

It is considered that there remains a need for an over-arching high level spatial plan beyond local authority level (such as regional or sub-regional) to adequately plan for strategic issues, such as meeting wider growth needs and delivering infrastructure required. These issues already require cross-boundary working and this must continue to be effective. Individual plans shouldn't be brought forward in isolation of the wider strategic planning needs of an area.

It is also felt that a national infrastructure plan would be of value for major infrastructure projects, such as transport and energy.

**Question 8a: Do you agree that a standard method for establishing housing requirements (that takes into account constraints) should be introduced?**

In principle, a standard method for establishing housing requirements helps to simplify plan making, adding certainty and speeding up the process. It would save a considerable amount of resources at the local planning authority level in needing to put together the evidence base on housing need and means that the issue is not subject to lengthy debate through the examination process.

However, this is only acceptable if the methodology is deliverable and fair and provides a realistic housing target for local authorities. In this regard, a methodology that simply seeks to divide up a pre-determined national figure, not derived from local level requirements, is not going to achieve this. A standard methodology that provides the certainty of a set calculation and common data sets is positive, but it should be based on local evidence of needs. The current top-down approach is essentially applying a formula and data until the correct answer is arrived at and does not reflect local circumstances.

It is also critical that the methodology is realistic and deliverable. For example, the increases in housing need resulting from the proposed methodology in recent 'Changes to the current planning system' consultation are extensive. For Tewkesbury Borough, the calculation would lead to an annual housing figure that is double that of its current adopted housing requirement. This need on its own is incredibly challenging to deliver in an area of Green Belt, AONB and flood risk. However, through the current joint planning arrangements with Cheltenham and Gloucester Councils, Tewkesbury are already helping to meet the unmet housing needs of these two urban areas. Going forward these already highly constrained urban areas are not going to be able to deliver against their own requirements due to lack of physical capacity. Therefore, as well as meeting its own substantially increased needs, Tewkesbury Borough is also going to need to consider meeting a significant proportion of needs from Cheltenham and Gloucester. It should also be noted that Cotswold District Council, which is adjacent to Tewkesbury Borough, would see their annual housing requirement triple, in an area that is almost entirely within AONB and this is likely to add further pressure for housing on adjacent areas.

Although the Government wish to see 300,000 homes delivered per year, there is a real danger that employing a methodology that sees significant, uncapped increases in housing requirements are not realistic to deliver. This not only includes the practicalities of planning for such levels of growth (i.e. identifying suitable and available land) but also the ability to deliver and fund the large amount of infrastructure that would need to support development, and whether the house building market has the ability to deliver the quantity of homes in

terms of resources (human and material), particularly delivering the quantity of houses in a small area.

Tewkesbury Borough Council are positive about delivering growth. However we are concerned that such high needs aren't realistically deliverable and therefore the area would be disadvantaged by not being able to meet its housebuilding targets with the penalties that come with that in terms of the presumption in favour of development and policies being considered to be out of date.

There is, however, support for constraints and practicalities being factored into the calculation and the authority would be keen to understand the Government's proposals for doing this.

**Question 8b: Do you agree that affordability and the extent of existing urban areas are appropriate indicators of the quantity of development to be accommodated?**

Using affordability as a key determinant in the standard methodology disproportionately weighs housing needs towards rural areas that have greater environmental constraints. This means that greater housing needs are distributed to more sensitive areas where meeting housing needs is more environmentally challenging and less sustainable. In addition, house prices in the rural areas around larger urban areas are driven by their very accessibility to those urban areas and the employment, service and leisure opportunities they provide.

For example, in the recent 'Changes to the current planning system' consultation, within Gloucestershire, the methodology employed would result in the more rural authorities of Tewkesbury, Cotswold, Forest of Dean and Stroud seeing increases in housing figures of 85%, 148%, 64% and 25% respectively. Meanwhile the urban authorities of Cheltenham and Gloucester would see decreases in housing figures of -1% and -12% respectively.

Affordability is generally more of an issue in rural areas and traditionally the supply of land for housing in these areas has been lower, largely because of the environmental constraints that exist as well as general sustainability considerations. For example, in Tewkesbury Borough there are significant constraints posed by significant areas of the Cotswolds AONB, high flood risk, and Green Belt; as well as other areas of high landscape and historic sensitivity.

In addition, places such as the Cotswold AONB, also have a significant pressure for the demand for second homes from people who do not live in the Borough. This helps to inflate house prices while at the same time the earnings from these buyers is not reflected in the average income statistics. This increases the affordability ration for the Borough as a whole.

Putting such a great weighting on affordability does not reflect the circumstances as to why the supply of sustainable housing land may be constrained and is counterproductive in achieving sustainable development. This is also therefore likely to run contrary the proposal for land constraints to be factored into the methodology.

The rationale for using affordability in the calculation is based in the principle that increasing housing requirements in areas of high affordability will lead to a decrease in house prices. However, the housing requirement and the supply of land is only one factor and there are other market forces at play that are outside a local authority's control. A key example would include the role of housebuilding industry and their assumptions on sales values and the relationship to bringing homes forward i.e. not wanting to flood the market to maintain value, or 'land banking' sites until values improve.

**Question 9a: Do you agree that there should be automatic outline permission for areas for substantial development (Growth areas) with faster routes for detailed consent?**

In principle this could be acceptable subject to the proper assessments being made at plan-making stage. Proper sustainability and environmental assessments need to be undertaken at some stage in the process and it would appear sensible for this to be done at the plan making stage given the hope value given by allocation/identification as a growth area. However, this does not necessarily align with the proposals to streamline the plan-making process given the amount of detailed work that would need to be front-loaded on to the plan making process to the equivalent level of an outline planning application.

Furthermore, it should also be noted that the financial and human costs of producing evidence and assessments to an outline application level will now fall to the local planning authority (as opposed to the applicant). This will add further burden to local authorities and be a further strain on their resources if additional investment in local authority planning departments is not made.

**Question 9b: Do you agree with our proposals above for the consent arrangements for Renewal and Protected areas?**

The benefit of this approach could be of value, but for its successful implementation it would need to be backed up with detailed design codes, patterns books etc. that reflect the different characteristics of the area. This would take significant time and resources including meaningful consultation with local communities.

There would also be potential obstacles to this type of approach when working on cross-boundary development, where the aspirations of different LPAs would not necessarily align.

**Question 9c: Do you think there is a case for allowing new settlements to be brought forward under the Nationally Significant Infrastructure Projects regime?**

The current NSIP regime is not considered fit for purpose to deal with the complexity of and detailed issues relating to new settlements. New settlements are complex and are built over a longer time period and will be subject to change.

The NSIP/DCO process still requires significant input from the local authority as a consultee which would place a demand on local resources, without the benefit of fees being received by the LPA.

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

There are some potential benefits in standardising some processes, i.e. information to be submitted, standard conditions etc., would help ensure consistency but there are always certain cases which would need tailoring to local circumstances.

Greater digitisation is welcomed but is wholly reliant on well-resourced IT infrastructure which is not available to all LPAs and would require significant and sustained investment.

The delegation of detailed planning decisions would speed up the decision-making process but could potentially disenfranchise local communities. Planning decisions can be important to local communities and the reduction of the assessment of applications to a tick box exercise is highly unlikely to result in improved outcomes in terms of quality.

Financial penalties for local authorities for failure to meet target deadlines or where appeals are allowed (which may be by a fine margin of subjective judgement by one Inspector, when another Inspector or the Secretary of State may have arrived at a different conclusion) are an unacceptable and counterproductive measure which could:

- Further reduce LPA resources, affecting their ability to achieve high quality planning outcomes;
- Result in rushed decision-making to meet targets which could impact on design quality/ place-making;
- Potentially holding Council's to ransom to not refuse applications which could be perceived to interfere with local democracy.

There is no mention of what penalties the development sector would face if they failed to adhere to timescales and failed to build out schemes which had been granted consent.

#### **Question 11: Do you agree with our proposals for accessible, web-based Local Plans?**

This proposal is generally supported. However, it is important that local authorities are supported and resourced in order to make the transition to a standardised approach that utilises different technology and software as well as its ongoing maintenance. This goes beyond just planning and is often a wider corporate resourcing issue, such as procurement and IT teams.

#### **Question 12: Do you agree with our proposals for a 30-month statutory timescale for the production of Local Plans?**

There is general agreement that the plan making process needs to be expedited and that public engagement into it should be improved. There is, however, real concern over the proposals set out regarding the timescales and plan making stages and how realistic it would be for plans to be delivered in this way.

It is not considered that the proposed five stage process allows for enough public engagement in the plan making process. Under the proposal there would be public consultation at the very start of the process to seek views on what development should look like and it should be located before any plan is formed. There would then not be another opportunity to comment on the plan until Stage 3 just before the plan is submitted for examination. This means that there is no opportunity for public comment on the draft plan, that the local authority can then use to inform the further drafting of the plan before it is then submitted. Under the proposal comments would be only considered by the appointed Inspector who would then make binding changes. This removes a key part of engagement in the plan making process to the detriment of both the public and the local authority.

In general, there is concern that the timetable set out in this proposal is not achievable. This specifically relates to Stage 2 which would mean that the plan and its evidence base would

need to be completed within 12 months. Even with the changing role of plans set out in the White Paper this is an unrealistic timeframe. Indeed, the proposal to allocate growth areas, and granting them outline planning permission, together with developing associated design guidance/codes means that a lot of detailed evidence and work will be needed for such designations, more so than the existing system of allocations. This will include putting together the same amount of evidence and supporting studies as you would expect for an outline application but potentially over much larger areas. In addition, other parts of the evidence base, such as transport strategy for the plan area, are themselves significant and complex pieces of work that can take over 12 months. Despite there being no formal consultation, the local authorities will also need to engage with developers and statutory consultees (Environment Agency, Highways England etc) on matters of deliverability to inform the drafting of the plan, particularly in regard to sites.

The examination process at Stage 4 is allocated 9 months. This is a disproportionately long time in the context of the wider 30-month process set out and needs to be expedited.

Clarification is needed over the adoption process at Stage 5 for the local authority following the examination. For example, it is proposed that the Inspector's changes would be binding. What happens if a local authority did not want to accept the changes? Or would the local authority be required to adopt the plan as recommended by the Inspector?

**Question 13a: Do you agree that Neighbourhood Plans should be retained in the reformed planning system?**

It is considered that Neighbourhood Plans can have a positive impact under a reformed system, particularly in influencing how developments are designed and their contribution to local character and place making.

However, the Government's expectation for Neighbourhood Plans, and what they can deliver, needs to be clearly set out so that local communities know what to expect and what the opportunities and parameters are. In addition, if local communities are going to put significant resource into developing plans there needs to be commitment that appropriate weight in decision making will be put on their policies. Too often communities have spent years putting together their plans only for them to be considered out of date in decision making on planning applications.

**Question 13b: How can the neighbourhood planning process be developed to meet our objectives, such as in the use of digital tools and reflecting community preferences about design?**

It is considered that the neighbourhood planning process can be particularly valuable in setting out the local design and place making objectives to influence how new development is delivered.

**Question 14: Do you agree there should be a stronger emphasis on the build out of developments? And if so, what further measures would you support?**

The building out of development is going to be critical in delivering homes to the levels required by a standard methodology in a timely way.

## **PILLAR TWO: Planning for beautiful and sustainable places**

### **Question 15: What do you think about the design of new developments that has happened recently in your area?**

- Generally, for large developments, 'off the shelf' designs are used which do not respect local character, nor blend in with the locality. We have a wealth of character across the Borough that is distinct to us, and we should ensure that design respects surrounding character, setting and identity.

### **Question 16: Sustainability is at the heart of our proposals. What is your priority for sustainability in your area?**

Sustainability and addressing the climate and ecological emergency should be at the heart of planning and should be a core principle running through the planning system, furthermore the role of planning and development in achieving the Government's carbon net zero targets should be explicit.

Energy efficient, carbon zero homes are critical in meeting the challenge of reducing carbon emissions in the area as well as nationally. In that respect it is not considered that the proposal within the previous Future Home Standard consultation for new homes to produce 75-80% lower CO<sub>2</sub> emissions by 2025 is not quick enough or far enough. In Tewkesbury Borough alone, before 2025, over 2,500 homes are expected to be delivered with many more likely to be granted consent. This means that if higher requirements are not put in place until 2025 that nationally there will be 100,000's of homes built that are not required to have these significantly lower CO<sub>2</sub> emissions. In future, many of these homes will need retrofitting for them become zero carbon. A nationally set standard for energy efficiency, through building regulations, is generally supported and is a better approach than individual authorities having to introduce standards separately. However, the building regulations standards need to be more ambitious and come into effect as soon as possible. It is also considered that energy efficiency standards for commercial and other non-residential buildings need attention as a major source of carbon emissions from buildings.

In addition, there is a critical need to support the retrofitting of existing homes and commercial premises to enable them to become more energy efficient, employ renewable energy systems and work towards carbon neutrality.

The provision of high-quality green infrastructure is important to sustainability to ensure people have easy access to open space as well as enhancing and restoring biodiversity and habitats. This also has a role to play in carbon sequestration, flood risk management and adaptation to climate change (particularly temperature regulation). It is crucial that new development makes appropriate contributions to green infrastructure and that this is built in as a fundamental part of the design of development. This should include achieving biodiversity net-gain as part of all new development.

A key sustainability challenge is to de-carbonise the transport network and particularly in promoting a greater role for public transport and active travel. While the move towards electrification of motor vehicles is an important part of this, it must go together with providing attractive and convenient alternatives to private car use, particularly for shorter trips that could be made by walking or cycling.



**Question 17: Do you agree with our proposals for improving the production and use of design guides and codes?**

Design guides and codes can be an appropriate tool when produced and used in the right way, but they can also be very resource hungry and require a lot of up-front work and consultation.

Design Codes can become out of date and can stifle innovative design. They would need to be a fluid document that could be regularly reviewed (for example to reflect changing government policy and regulations, such as climate change mitigation, and local highway authority guidance, building regulations etc.) which would have ongoing cost/ resource implications.

The production of design guides would need to be a multi-agency approach to reflect all requirements.

The Council would question how much influence local communities could have on developing local design codes in the context of all existing regulations/ policies. E.g. a local community's idea of local density may be very different from central government aspirations for housing numbers and delivery.

Design guides and codes would not eliminate disagreement between applicants and decision-makers; there will always be a matter of judgment as to whether a proposal is in conformity with the code. There may also be better outcomes from designs that don't comply. By the same token, a design could be put forward which appears to meet all the requirements of a design code but could still represent poor quality design. Design is an art, not a science.

Design guides and codes are best used when they guide a proposal, but it is only the assessment of proposals by qualified professionals, taking on board the aspirations of the local community, that will lead to the high quality aspirations for design the Government is looking for.

**Question 18: Do you agree that we should establish a new body to support design coding and building better places, and that each authority should have a chief officer for design and place-making?**

A new body would be helpful to disseminate and share best practice, in terms of what is good design. However, what would be more beneficial for LPA's would be to be able to call upon specialist advice and resource to deal with specific planning applications. It is not clear what weight these bodies would have in decision-making and plan adoption.

New Local Authority posts for design and place-making are crucial to meet the Government's aspirations but would have a financial impact on LPAs and would require additional funding.

Most councils have a 'Chief Planning Officer' who should be empowered to take a lead role in creating high expectations in respect of design quality, however most Chief Planning Officers are not so empowered. The important issue is the LPAs retain the ability to refuse planning applications that do not meet the Government's, their communities and their own aspirations for high quality design.

**Question 19: Do you agree with our proposal to consider how design might be given greater emphasis in the strategic objectives for Homes England?**

Yes. As the government's housing accelerator Homes England should be leading by example in terms of the quality of development and overall place making agenda. Funding criteria should be linked to high quality development. In addition, sites that Homes England buy and subsequently release to the market should give greater weight to design than land investment return.

**Question 20: Do you agree with our proposals for implementing a fast-track for beauty?**

The production of design codes and development briefs requires significant skills, resources and time to produce effective working documents that cater for all types of development and would need to be fluid documents to reflect changing tastes and regulations. The Council does not consider that this could be achieved to such a degree or even come close by automating the process. Design guidance/codes can give some degree of certainty to developers, so they understand what the local context requires, however major development proposals require robust assessment by professionals who understand that context.

It is unclear that the Government's proposals would lead to better places. The proposals do not account for innovative design which may well be preferable to those indicated by a design guide/code which could lead to bland environments rather than the rich, diverse places that should be aspired to. The implication is that this would be a tick box exercise and that there would be no judgement involved which would not, and should not, be the case.

This Council's experience is that the extension of permitted development rights generally results in poorer design outcomes, for example the conversion of really poor quality modern agricultural buildings; oversized domestic dormer windows etc. The Government's proposals are understandably focused on major new development, but if we forget to look after the fine-grain details of our existing places and allow them to be developed with little thought to high quality design, faith in the planning system will be lost.

## **PILLAR THREE – Planning for infrastructure and connected places**

**Question 21: When new development happens in your area, what is your priority for what comes with it?**

Appropriate Infrastructure which is delivered on time to coincide with occupancy of the properties being built.

**Question 22a: Should the Government replace the Community Infrastructure Levy and Section 106 planning obligations with a new consolidated Infrastructure Levy, which is charged as a fixed proportion of development value above a set threshold?**

No. The proposed changes would place a considerable burden on LPA's to deliver all of items currently provided by developers. There is also insufficient information provided to know how this would work in practice. In addition, who would set the threshold above which the levy would be charged. It is acknowledged that in some cases it would be better if the LA could provide all the necessary infrastructure for a new development. To have this control would ensure the infrastructure was delivered in timely manner. The issue however is that smaller Local Authorities just do not have the financial means to forward fund large infrastructure requirements.

**Question 22b: Should the Infrastructure Levy rates be set nationally at a single rate, set nationally at an area-specific rate, or set locally?**

The rate should be set locally, as a national rate would be a very crude tool and not reflect local markets and circumstances. Clarification is required on this point as a national rate would have to be set at the lowest viable level, so the rate in deprived inner-city areas would be the same as sites in affluent high value areas in London. Is this the intention?

**Question 22c: Should the Infrastructure Levy aim to capture the same amount of value overall, or more value, to support greater investment in infrastructure, affordable housing and local communities?**

Given the amount of infrastructure required to deliver the level of planned growth the Levy should capture as much value as possible to support great place-making.

**Question 22d: Should we allow local authorities to borrow against the Infrastructure Levy, to support infrastructure delivery in their area?**

No. This would be a huge risk for Councils to take on.

**Question 23: Do you agree that the scope of the reformed Infrastructure Levy should capture changes of use through permitted development rights?**

In principle yes, however there are concerns as to how this would be implemented.

**Question 24a: Do you agree that we should aim to secure at least the same amount of affordable housing under the Infrastructure Levy, and as much on-site affordable provision, as at present?**

Yes, and more. However, the existing system of securing affordable housing through S106 should remain. The onus should be placed on developers. The proposed changes would place considerable pressure and burden on Local Authorities. No details are provided as to whether there would be a revenue stream to allow for the recruitment of staff to deliver the infrastructure and affordable housing as a result of development.

**Question 24b: Should affordable housing be secured as in-kind payment towards the Infrastructure Levy, or as a 'right to purchase' at discounted rates for local authorities?**

As stated above the provision of affordable housing should remain the responsibility of the developers. If Council's were given the "right to purchase" at a discounted rate, then this would have significant resource and financial implications for LA's.

**Question 24c: If an in-kind delivery approach is taken, are there additional steps that would need to be taken to support affordable housing quality?**

The quality of development should be set out within existing planning policy and design codes.

**Question 25: Should local authorities have fewer restrictions over how they spend the Infrastructure Levy?**

There should be no restrictions on spending of the Infrastructure Levy, providing that the funding is being used to address the infrastructure requirements arising from the development.

**Question 25a If yes, should an affordable housing 'ring-fence' be developed?**

It is essential that affordable housing is provided so money for this should be ring fenced. There is an assumption that there is spare money available once all of the S016 and CIL requirements have been met. This is not the case.

**Question 26: Do you have any views on the potential impact of the proposals raised in this consultation on people with protected characteristics as defined in section 149 of the Equality Act 2010?**

Any reforms to the planning system should not discriminate or create the opportunity for any discrimination for any member of society.