

Agenda Item No: 10

Report To: CABINET

Date of Meeting: 10th May 2018

Report Title: Response to Government consultations on planning issues

Report Author & Job Title: Simon Cole, Head of Planning Policy

Portfolio Holder: Cllr. Paul Clokie

Portfolio Holder for: Planning & Development



Summary: This report sets out a proposed response to two consultations – the first relates to the proposed revisions to the National Planning Policy Framework, and the second, to suggested changes to the s106/ Community Infrastructure Levy regime. These responses (subject to any amendments by Cabinet) will be sent as the Council's formal response to consultation.

Key Decision: NO

Significantly Affected Wards: Borough wide relevance

Recommendations: The Cabinet is recommended to:-

- I. **Agree that officers respond to the Government consultation on the '*Proposed revisions to the National Planning Policy Framework (NPPF)*' in the terms set out in this report;**
- II. **Agree that officers respond to the Government consultation on '*Supporting housing delivery through developer contributions*' in the terms set out in this report;**

Policy Overview: The Local Plan and Planning Policy Task Group are charged with advising on planning policy issues. The Group has considered and agreed the proposed policy response in this report.

Financial Implications:

Legal Implications

No direct costs arising.

Various wider legal issues raised in terms of handling planning applications; local plan making and setting CIL. These will need more detailed consideration when the Government publishes final guidance.

Equalities Impact Assessment Not required because this is simply a response to consultation.

**Other Material
Implications:**

None

**Background
Papers:**

None

Contact:

Simon.cole@ashford.gov.uk – Tel: (01233) 330642

Response to Government consultations on planning issues

Introduction and Background

1. Two consultations are underway and hence this report is in two parts.
2. The consultations are on:
 - 'Proposed revisions to the National Planning Policy Framework (NPPF)', and
 - 'Supporting housing delivery through developer contributions'
3. These are both areas of major interest for the Council and raise significant issues including the way in which the housing requirement for the Borough is calculated and the likely implications of this; the prospects for a plan-led approach and, conversely, the likelihood of 'planning by appeal'; and changes to the way s106 and Community Infrastructure Levy (CIL) operate in the light of experience.
4. This report considers each consultation paper and suggests the nature of response to Government. The Local Plan and Planning Policy Task Group has considered these consultation papers (27th April) and this report reflects the Group's comments. Responses to both consultations are due by 10th May. As this is the day of the Cabinet meeting a provisional response has been sent to Government based on this report which was agreed by the Task Group.

'Proposed revisions to the National Planning Policy Framework (NPPF)'

Introduction

5. The current NPPF was adopted in March 2012 and has set out the main policies and principles in national planning policy for the last 6 years. It introduced the 'presumption in favour of sustainable development' (para. 14) and the requirement for local authorities to establish their own objectively assessed housing needs and demonstrate a deliverable 5 year housing land supply (para 47) or face the prospect of the relevant policies for the supply of housing in their Plans be considered 'out of date'.
6. Since that date, the NPPF has been supplemented with a raft of national Planning Practice Guidance (nPPG) and a variety of Written Ministerial Statements (WMS) and caselaw that has sought to (re)interpret various passages of the NPPF itself.
7. In February 2017, the Government published its White Paper entitled 'Fixing our broken housing market' and subsequently, in September 2017, a further

consultation entitled 'Planning for the right homes in the right places'. Both consultations were discussed by the Task Group and a response submitted on behalf of the Borough Council.

8. Many of the suggested changes to national planning policy first floated in the White Paper and the September 2017 consultation are now to be found in the proposed revised NPPF which was published in draft in March 2018 and is currently out to consultation until 10th May. The Government has also taken the opportunity to embed some of the WMS into the new text of the draft NPPF.
9. This report sets out the principal issues contained within the draft new NPPF and how this may affect future planning policy and decision-making for the Council. It also sets out a draft response on these matters that may form the Council's formal response to the current consultation.

Key Aspects

10. In general, the same broad themes and topic areas are contained within the draft revised NPPF as within the current version, including the general presumption in favour of sustainable development (new para 11). However, the questions of identifying housing need and ensuring its delivery are central to the principal changes in the new draft. There is also an amended and enhanced onus on Local authorities to collaborate in respect of housing delivery and additional policy on Neighbourhood Plans and their relationship with Local Plans.

a) Housing Need

11. The centrepiece of the new NPPF is a revised approach to the calculation of housing need. This was floated in the two 2017 consultation referred to above and the government seem determined to introduce the new methodology. In summary, this means that the housing need that will need to be planned for through subsequent Local Plans will be determined via a combination of demographic need and a multiplier based on the relationship between median house prices and median household earnings. For Ashford borough, this would currently mean an increased annual need of 164 units above that generated by the current methodology.
12. Para 61 of the draft revised NPPF sets the housing target of Local Plans on this basis (unless there are exceptional circumstances to justify an alternative approach). The housing figure should also take into account any needs that cannot be met within neighbouring areas.

Response

13. The additional simplicity afforded by the new methodology is more than offset by the flaws that underpin the principle of the approach. These issues have been raised by the Council in its responses to the previous consultations last year and bear repeating in general again. Whilst the demographic element involved in the methodology is broadly the same as with the current approach and is an acceptable starting point for assessing housing need, it is the element based on the comparison between average house price and average earnings which causes concern.

14. This concern is based on the underlying premise of the methodology that house prices can ultimately be controlled or substantially influenced by the planning system when there is no convincing evidence that is the case. If the Government's aim is to reduce, or at least, stabilise the growth in house prices, the new methodology for assessing housing need is unlikely to achieve the desired outcome.
15. More practically, the implication is likely to be less certainty in planning for housing need as the demographic elements are updated every two years and the average earnings and house price ratio annually. Given the time frames usually associated with plan-making, this potential for the 'goal-posts to move' during plan-making is significant and may end lengthening the process.
16. The Council considers that the proposed methodology should be reconsidered and a streamlined version of the current methodology for assessing objectively assessed housing needs in an area brought into force instead.

b) Affordable Housing / small sites

17. Para 65 of the draft revised NPPF states that at least 10% of homes on major developments (10 units or more) should be available for affordable home ownership although some exemptions apply for example where a scheme provides solely for 'Build to rent' units, or is a self-build scheme or is exclusively for affordable housing or an 'entry-level exception site'. This latter category is a new form of development and constitute homes suitable for first time buyers (or looking to rent their first home). Such sites should be outside existing settlements on unallocated sites but adjacent to them and proportionate in size to them (para 72).
18. Para. 69 of the draft revised NPPF promotes small sites as contributors to meeting housing need. LPAs are encouraged to ensure at least 20% of sites for housing in their Plans are 0.5 hectares or less in size.

Response

19. The emphasis on encouraging affordable home ownership encompassed within the draft NPPF reflects that promoted in the 2017 Housing White Paper. This has also been reflected in changes to the definition of 'affordable housing' for planning purposes. Emerging policy in the Submission Local Plan also reflects this. The concept of the 'entry-level' exception site seeks to build on the principles of the rural exception site for 'local needs' but goes considerably further. The policy needs to distinguish why it would be an 'exception' (i.e. normally refused permission) and express some limit on scale and frequency (given 'local needs' exception schemes are based on local empirical evidence of need). As drafted in the new NPPF, this policy appears to be a somewhat crude attempt to encourage developers to promote housing schemes focused at first time buyers (or renters) when there may be little incentive to do so or justification for such an approach.
20. The encouragement of small sites is, on the whole, reasonable and should be supported although there could be additional clarity over a minimum housing number expected to be delivered on a qualifying small site. The Government's policy should also make it clear that such allocations should be expected to

provide appropriate levels of affordable housing and other relevant developer contributions on the basis that the viability of the Plan's requirements will already have been assessed at examination stage. Without this, the opportunity to deliver the necessary services and facilities is undermined if there is greater reliance on small sites.

c) 5 year housing land supply

21. Para 68 of the draft revised NPPF retains the existing 5 year housing land supply test that appears in para 47 of the current version but the important change is to the definition of 'deliverable' sites for the purposes of establishing the land supply. Currently, footnote 11 of the NPPF considers all sites with planning permission as 'deliverable', unless there is clear evidence such schemes will not come forward within the 5 year period. In the new NPPF, 'deliverable' is defined in the glossary to the document but now only small sites and sites with detailed planning permission may be presumed to be deliverable, whilst sites with outline permission or allocations in a development plan should now only be regarded as 'deliverable' if there is clear evidence that housing completions will (my emphasis) begin on site within 5 years.
22. The new NPPF also proposes to introduce the option for a LPA to 'fix' a 5 year housing land supply position on an annual basis. This would be in the form of an 'Annual Position Statement' which would need to be prepared and submitted for testing and approval by the Planning Inspectorate. The Statement would need to be subject to consultation with developers/site owners/ applicants and conclusions set out where there is agreement and disagreement and provide extensive details of planning permissions and assumptions regarding lead-in times and build out rates plus a commentary on why progress on some sites may not have been as swift as anticipated.
23. Any 5 year housing land supply position to be fixed through an Annual Position Statement would need to include a minimum 10% buffer above the annual requirement plus any shortfall.

Response

24. The key issue here relates to the ability for a Council to demonstrate a deliverable 5 year housing land supply. Given the context of a potentially higher requirement generated through the new methodology discussed above, this may be more difficult to achieve and the amended definition of what constitutes 'deliverable' in this context is particularly relevant.
25. The new NPPF approach appears to be a direct response to the recent St Modwen judgement in the Court of Appeal where the Court distinguished between an expectation of what will happen in terms of delivery and what a reasonable prospect of that may entail.
26. For authorities like Ashford which give great weight to the importance of a plan-led system to allocating land for housing, the proposed new definition may be greatly damaging and indeed, undermining of the plan-making process if, as proposed, allocated sites, (emerging and adopted) can less easily be counted against a 5 year housing land supply target. As a consequence, it may make it easier for non-allocated sites, or those which

have failed to be included in a draft Local Plan, to come forward through the application / appeal route.

27. As an absolute minimum, the government should make it clear what information would be needed to enable LPAs to adequately demonstrate that allocations or sites with outline permission will be able to deliver housing within the 5 year period, e.g. written confirmation from developers / landowners to that effect. Without this, it is hard to see how LPAs can comply with the test set out in the NPPF glossary given their ultimate lack of control as to when a site comes forward.
28. Theoretically, the ability to fix a 5 year housing land supply position annually has some merits in that it should mean it was not a source of debate at any planning appeals during the course of that year. However, the nature of housing land supply is that it varies across the course of a year as new sites are granted planning permission, others expire or are delayed and, as has been the case in 2017/18, additional housing allocations are made by the Council. It is also unclear how the ability to fix a 5 year housing land supply position through an APS may be affected by a failure of the Housing Delivery Test (see below).
29. Again, whilst the Council can see the Government's aspirations to simplify a currently highly complex area of national planning policy, further consideration needs to be given as to the practical application of a fixed housing land supply position especially in the context of other requirements set out in the draft NPPF. In any event, the Council considers that any 'fixing' of a housing land supply position that has been endorsed by the Planning Inspectorate should be for a minimum of 3 years, rather than just the single year proposed.

d) Housing Delivery

30. The introduction of a Housing Delivery Test was also floated in the 2017 consultation documents referred to at the start of this report and this now forms part of the draft revised NPPF. Para 75 puts the substantial failure to meet the Housing Delivery Test on the same basis as a failure to demonstrate a deliverable 5 year housing land supply, i.e. triggering the presumption in favour of sustainable development (now in para 11) and the so-called 'tilted balance' for decision-making.
31. Substantial failure to meet the HDT is defined as follows in para. 211:-
 - i) At November 2018, delivery of less than 25% of housing required over the past 3 years;
 - ii) At November 2019, delivery of less than 45% of housing required over the past 3 years;
 - iii) At November 2020, delivery of less than 75% of housing required over the last 3 years.
32. Otherwise, where the HDT indicates delivery has fallen below 95% of housing required over the previous 3 years, the LPA should prepare an Action Plan within 6 months to assess the causes of under-delivery and identify actions to increase delivery in future years. It is very likely that the Borough Council will

be required to do this later this year should this element of the draft NPPF be confirmed.

33. The associated nPPG also sets out that a 20% buffer as part of the 5 year housing land supply calculation will be required where delivery is less than 85% of the identified housing requirement. Beyond 2020, the presumption in favour of sustainable development (tilted balance) will continue to apply if housing delivery is below 75%.

Response

34. This new area of national planning policy is perhaps the most difficult for the Council as it places the Council under a test that it has no control over whether it meets with the consequences of failure falling solely on the LPA. Whilst the Test reflects the Government's priority with getting houses built on the ground, it fails to address the simple fact that the vast majority of new houses are delivered by the private sector. As with the 5 year land supply policy, the HDT introduces an even starker perverse incentive against swifter delivery of new houses and re-inforces the inequity of the approach.
35. If left as currently proposed in the new NPPF, it is unlikely that many LPAs will be able to avoid the sanctions of the 20% buffer on 5 year land supply and / or the imposition of the 'tilted balance' approach to decision-making which will lead towards more planning by appeal and a reduced influence of the adopted Development Plan. Certainly, in any macro-economic downturn, when house building naturally reduces for reasons unconnected with planning policy, LPAs will be helpless to influence whether the HDT will be met.
36. The Government has appointed the Letwin Committee to consider reasons why housing developments are not brought forward or built out quicker and this is expected to report its conclusions by the end of the year. The Council believes that, in the absence of the findings of that report and a proper understanding of how and if planning policy can genuinely affect build out, and any consequential measures that would act as an incentive for developers to do so, the imposition of any Housing Delivery test in the NPPF should be suspended.

e) Strategic & Local Policies / Neighbourhood Plans

37. The draft revise NPPF seeks to make a greater distinction between what are genuinely 'strategic' planning policies and what are otherwise 'local' planning policies. Para 21 of the revised draft NPPF states that this distinction should be explicit in Plans. 'Strategic' policies would be limited to those setting out, for example, the number of homes and jobs to be planned for; an overall strategy for the pattern and scale of development; infrastructure and community facilities necessary to support development, and policies to address climate change mitigation or conservation and enhancement of the built or natural environment, plus any strategic site allocations.
38. In contrast, 'local' policies could cover all other matters or provide the detail to supplement the 'strategic' policies. These may be brought forward as part of a single Local Plan, or a subsequent Local Plan or within Neighbourhood Plans.

39. In addition, para 66 of the draft revised NPPF advises that 'strategic' plans should set out a housing requirement figure for designated Neighbourhood Areas. Where it is not possible to do so (e.g. late designation as a NA), then an indicative figure may be requested by the neighbourhood planning body.

Response

40. The flexibility that is implied by the new NPPF in respect of plan-making is welcomed. The ability to produce either a single Local plan or a series of separate Plans dealing with 'local' policies should assist LPAs in responding to changes in circumstances or policy where a partial review would be more appropriate than a full review.
41. This approach may also assist in the relationship between Local and Neighbourhood Plans, although the suggestion that housing figures for Neighbourhood Areas should be identified through the Local Plan may be problematic. Although the starting point may be a strict demographic, 'pro-rata' breakdown of a borough wide requirement, the nature of different locations vary widely and their ability to assimilate or absorb new development will also be very different.
42. The Council considers that a more flexible arrangement is needed so that the relationship and responsibilities between Local and Neighbourhood Plans is made clearer. This would be to the benefit of those wishing to promote land for housing too. It will be important for LPAs to be assured that Neighbourhood Planning bodies are diligent in bringing forward NPs with housing allocations to ensure that an adequate supply of housing land is achieved across the borough.

f) Maintaining Effective Co-operation

43. Members will be familiar with the 'Duty to Co-operate' that is a legal requirement for any plan-making process. In order to demonstrate effective and on-going joint working, para 29 of the draft revised NPPF requires LPAs to prepare and maintain statements of common ground with neighbouring authorities and other relevant bodies that document cross border matters to be addressed and the progress achieved in doing so. New nPPG* sets out the details of when and how often these should be produced but documentation will need to be produced throughout the plan-making process rather than at the Submission of the Plan which tends to be the case now. The new NPPF also makes clear that demonstrating how cross border matters have been addressed (rather than deferred) as evidenced by statements of common ground will be a test of soundness for any submitted Plan. This includes the accommodation of any unmet housing needs from neighbouring areas where it is practical and sustainable to do so.

Response

44. The proposed requirement for on-going Statements of Common Ground represents a practical ratcheting up of the existing Duty to Co-operate requirements. It is important for LPAs to be able to satisfactorily demonstrate that effective co-operation and liaison has taken place on cross border strategic matters and in particular in respect of the meeting housing needs given the added emphasis on being able to show that any unmet needs can be addressed in respect of Plan soundness.

45. It will be necessary for local political leaders to have appropriate structures in place to enable these additional requirements to be satisfactorily addressed throughout the plan-making process accepting that the variance in plan-making timetables may make this harder to achieve. In general, it is felt that this requirement does not adequately recognise the potential difficulties for local politicians in addressing these issues in a way that can build local support for housebuilding, rather than local opposition.

g) Plan Review period

46. The need to formally review Local Plans (and Statements of Community Involvement) every 5 years has now come into force (on 6th April 2018) but this is now also reflected in the draft revised NPPF. Para. 14 makes it clear that policies should be reviewed at least once every 5 years to see if they need updating and particular reference is made to circumstances where local housing need figures has increased or is expected to.

Response

47. The clarity of the proposed references in the NPPF and the associated nPPG is welcomed and on balance it is helpful for standard default review periods to be built into Plans to ensure they remain relevant and up-to-date.

h) Density standards

48. Para 123 of the draft revised NPPF makes a particular point of advising that policies and decisions should avoid homes being built at low densities where there is an existing or anticipated shortage of land to meet housing needs. The use of minimum density standards for schemes in city / town centre and other locations well served by public transport is advocated but such standards should also be considered in other locations.

Response

49. The Council has major concerns about the proposed policy approach here. It is reminiscent of the minimum residential densities imposed by central government when the last Labour government was in power. Although the draft NPPF focuses on areas in town centres and close to railway hubs and so is less prescriptive across the board, this approach does not have the necessary flexibility to enable the market to set what it considers is an appropriate density. In metropolitan centres, this is likely to be consistent with market forces, but in centres such as Ashford, this may not be the case and may not be desirable in any event.
50. Instead, the overriding factor should be whether the density of development is suitable for the location and character of the area in those terms. Trying to force higher densities into locations where they are inappropriate is likely to lead to a degraded living environment, e.g prevalence of on-street parking, and adverse social consequences in the future.

i) Environmental policy

51. The majority of the policy contained within the draft revised NPPF on various environmental matters remains either the same or broadly similar to that in the current NPPF. This involves policy on design, flooding and the natural and

historic environment. However, there are some subtle changes worthy of mention in a few areas.

52. The importance of the character of the countryside in its own right has been one of the 12 core planning principles set out in para 17 of the current NPPF. As these core principles are not replicated in the new NPPF, the recognition of the 'intrinsic character and beauty of the countryside' is now referred to as one of 6 criteria set out in para 168 of the document for LPAs to take account of in the context of contributing to the enhancement of the natural and local environment. It remains to be seen if this reduces the force or importance of this particular point.
53. The importance of Ancient Woodland and aged or veteran trees that lie outside Ancient Woodland is elevated in the new NPPF. Para 173 now states that development resulting in the loss of such woodland or other irreplaceable habitats should be refused unless there are wholly exceptional reasons.

Response

54. The Council welcomes the specific support for Ancient Woodland in the new NPPF. There would be benefit in establishing with greater clarity, the importance of the character of the countryside and in particular, 'valued' landscapes, within the meaning of sustainable development as set out in the NPPF and especially the presumption in favour of sustainable development in para. 11. It would be helpful if guidance can help to clarify situations how, in undesignated landscape areas, the relative importance of the countryside and its character can be assessed.

j) Broadband policy

55. The draft revised NPPF recognises the importance of high quality communications and for the first time explicit reference is made to the need for planning policies and decisions supporting the expansion of electronic communications networks including full fibre broadband connections. Policies that prioritise full fibre connections to new and existing developments is specifically encouraged (para 112).

Response

56. The Council strongly supports the revised NPPF in this aspect and in particular, the support for full fibre connections to new developments. It would be helpful if this could be made clear as an expectation that should fall on developers to ensure connectivity is available to new housebuyers when they take possession.

k) Planning conditions

57. The Government has previously signalled its intention to reduce the scale of conditions, especially pre-commencement conditions, that are applied to planning permissions and which are seen as a constraint to development being implemented. Para. 56 of the revised NPPF makes it clear that pre-commencement conditions should be avoided unless there is a clear justification but there is cross reference made to the changes to the planning legislation that will require an applicant's written agreement to the terms of pre-commencement conditions, unless the prescribed exceptions apply.

58. In para. 78, reference is made to LPAs considering imposing a condition that requires a development to commence within a shorter timescale than the relevant default period where this would expedite the development without threatening its deliverability or viability.

Response

59. Whilst it is accepted that there is scope to reduce the scale of pre-commencement conditions, these can play an important role for applicants in enabling a planning permission to be granted (which may have financial implications) and then to spend money on dealing with the detail necessary in pre-commencement conditions. It should remain essential that the necessary detail is available to the LPA to enable an informed decision to be made on an application and it is possible that more of this might now be needed in advance of any grant of planning permission now causing additional delays.
60. The policy or guidance should also make clear that where terms of pre-commencement conditions are agreed with an applicant, these should be immune from any subsequent appeal process.
61. With regards to conditions requiring development to commence within short timescales, this is likely to have little or no impact on build out rates unless there are also additional measures to require developers to build their schemes out in a timely way. The Draft NPPF is wholly absent of such measures at present and this should be corrected.

‘Supporting housing delivery through developer contributions’

Introduction

62. Contributions from development towards local infrastructure are collected primarily through two mechanisms, section 106 planning obligations and the CIL.
63. Section 106 planning obligations are negotiated legal agreements between developers and local authorities. They are used to make development acceptable through delivery of affordable housing or infrastructure, or requiring development to be used in a particular way. All section 106 planning obligations are subject to statutory tests to ensure they are necessary, proportionate and directly related to the development.
64. CIL was introduced in 2010. It was established on the principle that those responsible for new development should make a reasonable contribution to the costs of providing the necessary additional infrastructure. As a more standardised approach than section 106 planning obligations, it was intended to be faster, fairer, more certain and more transparent.
65. CIL allows authorities to set a fixed rate charge per square metre of new development, and is used to address the cumulative impact of development in an area. CIL can be used to fund a wide range of infrastructure, including transport, flood defences, schools, hospitals, and other health and social care

facilities. The choice as to whether to apply CIL and the rate at which it is set rests with the local authority. A proportion of local CIL receipts are earmarked for local areas to spend on anything that addresses the demands that development places on their area.

66. To date 44% of all potential charging authorities have an operational CIL. A good number of other authorities, like this Council, have carried out initial consultation – in Ashford’s case with a view to adopting CIL following the new local plan adoption. Nationally only around 15% of all developer contributions collected annually are secured through CIL – the vast majority being s106 agreements.
67. In response to a range of concerns the Government is carrying out a consultation on ways to improve housing delivery using developer contributions. These concerns are:
- The partial take-up of CIL has resulted in a complex patchwork of authorities charging and not charging CIL. Where CIL is charged, it is complex for local authorities to establish and revise rates. These can often be set at a lowest common denominator level;
 - Development is delayed by negotiations for section 106 planning obligations, which can be sought alongside CIL contributions;
 - Developers can seek to reduce previously agreed section 106 planning obligations on the grounds that they will make the development unviable. This renegotiation reduces accountability to local communities;
 - CIL is not responsive to changes in market conditions;
 - There is a lack of transparency in both CIL and section 106 planning obligations – people do not know where or when the money is spent; and
 - Developer contributions do not enable infrastructure that supports cross boundary planning.

Objectives

68. The Government’s objectives in this review can be summarised as:
- Reducing complexity and increasing certainty for local authorities and developers
 - Supporting swifter development through focusing viability assessment on plan making rather than when planning applications are submitted
 - Increasing market responsiveness so CIL is set at realistic rates
 - Improving transparency for communities and developers over where contributions are spent and expecting viability assessments to be publicly available

- Allowing local authorities to introduce a Strategic Infrastructure Tariff to help fund or mitigate strategic infrastructure

Key issues and proposed responses

69. The consultation asks a series of 34 detailed questions in response to a series of issues raised to tackle the Government's concerns. It is not necessary or appropriate to tackle each of these here. The key issues and officer's suggested responses are as follows:

- **Simplifying the approach to setting and justifying the appropriate level of CIL and the extent of consultation needed to support it** – officers recommend that these proposals are supported;
- **Removing the pooling barrier which limits to 5 the number of s106 contributions that can be made to any one infrastructure project** – the proposal here is to lift the pooling restriction (which officers recommend is strongly supported) but only in limited circumstances. The Government is concerned that s106 is not used to collect tariff based contributions from development generally – hence the pooling restriction. Pooling would be lifted when CIL has been adopted by the Council (or when a council has a strong reliance on delivering large sites where CIL works less well). As this council intends to press on and adopt CIL, officers suggest the lifting of the pooling restriction on this basis can be supported although it is considered that the pooling restriction should be lifted in any event. The large sites exception would potentially prove helpful if for any reason CIL was delayed or not enacted, but the proposed approach is very complex and may not come forward.
- **Improving the operation of CIL** – a series of detailed technical and operational changes to the way CIL operates are suggested which officers will consider and respond to.
- **Increasing market responsiveness** – in response to concerns that CIL is having to be set at 'lowest common denominator' levels the consultation sets out ways the Levy could be refined to more closely reflect the uplift in land value arising from planning permission. Ways of doing this include setting differential rates of CIL to take account of different existing uses or mixes of uses. Whilst the intention here is understood the complexity these variations give rise to is huge and with it scope for debate, delays and the inevitable costs that accompany both. Officers suggest that the detailed technical response sent reflects these concerns.
- **Indexing CIL rates to house prices** – to allow for change over time without a frequent need to keep re-setting CIL rates, the Government proposes CIL is linked to the House Prices Index (either regional or at local authority level). Non-residential development is harder to index. Other specialist consultees

will respond on these issues – officers recommend a broad support for indexation to reduce the frequency of CIL review needed.

- **Improving transparency and accountability** – the Government wants greater transparency on how CIL and s106 together tackle needs created by development. In Ashford our annual review of s106 receipts and spend is recognised good practice (viz the recent Peer Review report). Similar transparency will be needed with CIL once in operation. The proposed ‘Infrastructure Funding Statements’ seem a proportionate and helpfully transparent way forward and officers recommend this approach is supported.

(Note – the parallel consultation on the National Planning Policy Framework revisions also suggest that development appraisals submitted to support the case for reductions in developer contributions are made publicly available – something officers feel is generally appropriate).

Conclusion

70. These consultations raise significant issues for the Borough Council and a clear and direct response is needed to the Government. The basis of this response is set out in this report – officers will supplement this with detailed responses on the technical points raised.

Portfolio Holder’s Views

71. I support the proposed responses set out in this report.

Contact and Email

Simon.cole@ashford.gov.uk ; tel – 01233 330642