

Response to consultation on Planning for the Future, October 2020

About the National CLT Network

The National CLT Network is the official charity supporting Community Land Trusts (CLTs) in England and Wales. We are a membership body and represent over 300 CLTs, who together have plans to deliver 7,000 homes by 2025. 2020 marks the ten year anniversary for the National CLT Network and more than a ten-fold growth of the CLT movement, from just 30 pioneering CLTs in 2010 to over 340 today.

For further information on this response please contact Catherine Harrington, Co-chief Executive of the National CLT Network, on Catherine@communitylandtrusts.org.uk or 07851 169921.

1. Introductory remarks

- 1.1. CLTs are one form of community led housing, where communities come together to deliver new or refurbish existing housing to meet local needs. Other forms of community led housing include housing co-operatives, cohousing communities, development trusts and self-help housing.
- 1.2. CLTs are set up and run by local people to develop and manage homes and other assets. The CLTs act as long-term stewards of the homes, ensuring that they are genuinely affordable, based on what people actually earn in their area, not just for now but for every future occupier. CLTs are defined in Section 79 of the 2008 Housing and Regeneration Act.
- 1.3. As of August 2020, there were 347 active CLTs, of which 312 were legally incorporated. The movement has grown more than tenfold since 2010, driven chiefly by a strong appetite amongst communities to have more control over housing developed in their area. When combined with other forms of community led housing, there are now nearly 900¹ groups in all parts of the country developing homes.
- 1.4. We welcome the Government's ambitions in the Planning White Paper to bring democracy forward and give neighbourhoods and communities an earlier and meaningful voice in the future of their area. As the Minister of State for Housing, Rt Hon Christopher Pincher MP, highlighted at an event of ours on 15th September 2020, community led housing can demonstrate the sort of community participation

¹ Dr Tom Archer 'ADDENDUM: Estimating the pipeline of community-led housing projects and its grant requirements', September 2020. http://www.communitylandtrusts.org.uk/filecache/519/bc6/1000-dr-tomar-cher-pipelinereport_addendum_sept-2020-final.pdf

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and democratic control that he stated is envisaged for planning and design in the White Paper.

- 1.5. We also welcome the ambition to enable new entrants to access the market - CLTs are themselves SMEs and are important customers of SMEs - and the specific measures to support community-led housing, including the proposal for sub-areas. We set out in our response how sub-areas could work in practice and propose a **fast track for permissions for community led housing with demonstrable community support**. This is set out in detail in our response to Proposal 1.
- 1.6. We particularly welcome the proposal that the cross-government strategy on public land explores how it can support CLTs, amongst others, to identify public land opportunities. We look forward to working with the Government on the strategy.
- 1.7. However, we are concerned whether the proposals for land use plans and plan making will in fact allow for meaningful and 'best in class' community engagement, particularly Proposals 1 and 8, and propose some ways to strengthen those proposals. In particular, we support calls for the introduction of a new concept of **Community Priority Projects** in Stage 1 of the new proposed statutory timetable, and to which local planning authorities must have regard to in formulating their Local Plan proposals in Stage 2. This is set out in more detail in our response to Proposals 1 and 8.
- 1.8. We are also particularly concerned about the proposals to replace S106 planning obligations with a consolidated levy and the impact that that will have on the supply of affordable housing by CLTs.
- 1.9. Finally, it should be noted that planning is not the principal barrier to growth in CLTs and community led housing. Instead, what is required is a renewal of the Community Housing Fund, providing much needed revenue grant support to groups to reach planning and capital grant for groups developing innovative forms of low cost home ownership or other products that are not eligible under the Shared Ownership and Affordable Homes Programme. We have set out the case for this in our [Comprehensive Spending Review submission 2020](#).
- 1.10. In developing our response we have consulted with the 27 regional enabler hubs in England who provide expert support to the nearly 900 active community led housing organisations across the country.

2. **Answers to relevant questions**

Pillar 1

For further information on this response please contact Catherine Harrington, Co-chief Executive of the National CLT Network, on Catherine@communitylandtrusts.org.uk or 07851 169921.

Proposal 1: The role of land use plans should be simplified. We propose that Local Plans should identify three types of land -- Growth areas suitable for substantial development, renewal areas sustainable for development, and areas that are Protected.

Question 5: Do you agree that Local Plans should be simplified in line with our proposals? [Yes / No / Not sure. Please provide supporting statement.]

Not sure.

We are supportive of the ambition to simplify land use plans. However, we are very concerned about whether the new plan-making process as set out in the Planning White Paper provides for meaningful community involvement, especially when it is combined with Proposal 8 which provides a very limited timeframe for plan-shaping. At the moment it appears to reduce the ability of communities to have their voices heard. We address these concerns in our answer to questions under that proposal.

We are also concerned with the proposal that areas designated as 'protected' will have more stringent development controls which could undermine the ability of those areas to grow to meet changing social and economic needs, including through the provision of affordable housing. We fully understand the need to stop large scale developments that would undermine the character and purpose of those areas. However, in some of the areas that would be protected - Areas of Outstanding Natural Beauty (AoNB), national parks and green belts - CLTs have brought forward small scale developments of affordable homes for local people that are sensitively developed and welcomed by the community and which secures the sustainability of those areas. For example, on Dartmoor, Christow CLT's scheme of 18 homes achieved planning consent with no objections; so unusual for a new housing scheme in the National Park that Dartmoor National Park Planning Authority is now encouraging the creation of CLTs elsewhere. Similarly, Marshfield CLT in the Avon Green Belt and Cotswold AoNB has recently received planning consent (subject to a S106) with 69 messages of support and only 2 objections.

We welcome the proposal to allow sub-areas to be created specifically for self and custom-build homes and community-led housing developments and would like to work with the Government on the details. In particular we propose that:

- The policy should allow for **sub-areas to be specifically for community led housing and/or affordable community led housing**. If the sub-areas are only for a catch-all including self and custom build the danger is that these sites will be valued in such a way as to make affordable community led schemes less viable, and so the policy will not achieve its objective. The GLA's Small Sites Programme is a good example (albeit for disposal of public land, not planning) of this more fine-grained approach, where

criteria (self-build, affordable, community led, small builder) are applied in combinations on each site.

- The policy should also apply to Renewal Areas, since these are also by definition areas suitable for development, and Protected Areas as, as set out above, CLT and community led housing development is often brought forward by communities in existing Protected Areas as a way of sympathetically meeting local needs and ensuring the sustainability of that community.
- Neighbourhood Plans should be able to designate sub-areas for community led housing and affordable housing. This would be particularly useful in contexts such as villages in Protected Areas, where fine-grained local decisions can be made responding to local needs.
- There should be a presumption that large sites include sub-areas for this use as identified in the Local Plan. As set out in proposal 10, this would secure faster build out rates.
- Community led housing groups that register with the Local Planning Authority (LPA) should be treated as statutory consultees for this process, and the LPA should be required to show how it has considered their representations and made appropriate changes. Otherwise there is a risk that LPAs will designate the least desirable or viable sites as sub-areas.

We also propose the following specific policies under Proposal 1:

- 1. The introduction of Community Priority Projects.** We echo the view held by Stephen Hill of C2O Futureplanners and others that, in order to achieve 'best in class' community participation in plan shaping and support for local plans, communities need a tangible stake in the future of their communities. We therefore support the call to introduce a new concept of **Community Priority Projects (CPPs)** to allow local people to propose a site/area allocation in the local plan for specific developments or services that have a spatial dimension - for example, libraries, community centres, community shops, workspaces, community led housing, heritage buildings and so on.

The proposal is that CPPs should be included in Stage 1 of the new proposed Statutory Timetable. Local Planning Authorities must have regard to CPPs in formulating their Local Plan proposals in Stage 2, by making policies and land allocations for each of the proposed Growth, Renewal and Protected Areas where proposed CPPs will achieve desired social, economic and environmental outcomes in those communities and make a contribution to overall Local Plan objectives.

The Stage 1 call for CPPs could also provide the opportunity to ensure that the purposes of the community rights supported by the Localism Act - namely Assets of Community Value and the Community Right To Build - are aligned and integrated more effectively within local spatial planning policies. This would help increase their

uptake and impact alongside the already successful Neighbourhood Plan programme.

- 2. A fast track for permissions for community led housing with demonstrable community support.** This would provide the equivalent ‘permission in principle’ (as the White Paper provides in Growth areas) to community led housing groups in Renewal Areas and Protected Areas. It would be granted when certain criteria are met. These might follow examples such as Rural Exception Sites, where homes must be affordable, meet local need and prioritise local people; and East Cambridgeshire District Council’s Community-Led Development SPD², which states that affordable housing elements will be permitted as an exception to the normal policies of control where 7 criteria are met, including that “the scheme was initiated by, and is being led by, a legitimate local community group” and “has general community support, with evidence of meaningful public engagement”. The SPD sets out what evidence is required. The policy may or may not include a requirement of affordable housing and we'd welcome discussing this further. This fast track might also apply in the Green Belt, along lines similar to those proposed by Shelter³, where forms of community led housing that are democratically accountable to local people and protect the social, environmental and economic interests of the community may develop much-needed homes in areas where conventional development would not be permitted.

On a related point, the White Paper does not mention Rural Exception Sites. We would urge that they are retained in any reforms, as a highly effective means of providing community led and affordable housing in rural areas.

Proposal 4: A standard method for establishing housing requirement figures which ensures enough land is released in the areas where affordability is worst, to stop land supply being a barrier to enough homes being built. The housing requirement would factor in land constraints and opportunities to more effectively use land, including through densification where appropriate, to ensure that the land is identified in the most appropriate areas and housing targets are met.

***Question 8(a): Do you agree that a standard method for establishing housing requirements (that takes into account constraints) should be introduced?
[Yes / No / Not sure. Please provide supporting statement.]***

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

² <https://eastcambs.gov.uk/local-development-framework/supplementary-planning-documents>

³ <http://blog.shelter.org.uk/wp-content/uploads/2017/11/Green-Belt-Community-Trust-briefing-Oct2017-Pic1.pdf>

[Yes / No / Not sure. Please provide supporting statement.]

No.

As set out in our response to Question 5, we are concerned that having regard to land constraints when determining the housing requirements in an area and the resulting land supply will mean some areas will be unable to grow to meet changing needs. As the White Paper points out, in many National Parks, AONBs and other areas with land constraints housing is unaffordable to local people (in some parts due to high levels of second homes or holiday lets). Constraining the supply of affordable housing in those areas, including low cost home ownership, threatens the ongoing sustainability of those places.

To ensure the social component of sustainable development is met through the planning system we urge that any National Guidance includes a continuing requirement that LPAs assess the housing requirements for specific groups, including the need for affordable housing. We also urge that LPAs have the ability to develop policies that ensure that these requirements are met as part of delivering the overall housing numbers.

Proposal 5: Areas identified as Growth areas (suitable for substantial development) would automatically be granted outline planning permission for the principle of development, while automatic approvals would also be available for pre-established development types in other areas suitable for building.

Question 9(a): Do you agree that there should be automatic outline permission for areas for substantial development (Growth areas) with faster routes for detailed consent?
[Yes / No / Not sure. Please provide supporting statement.]

Question 9(b): Do you agree with our proposals above for the consent arrangements for Renewal and Protected areas?
[Yes / No / Not sure. Please provide supporting statement.]

Not sure.

We welcome the ambition to streamline the development management process to provide greater certainty and thereby reduce the risk for those bringing forward development. Anecdotal evidence suggests this will reduce the costs for CLTs of taking a scheme to planning by 15%.

However, we are concerned that the streamlined development management system will not deliver the social, economic and environmental benefits of sustainable development.

Firstly, the proposal will mean the only opportunity for local democratic input will be at the plan-making stage. As set out in response to Proposal 8, the current proposals do not allow for sufficient time for meaningful community involvement in plan-shaping. As we also set out in response to Proposal 8, there should be a requirement for Local Plans to include a more robust Statement of Community Involvement, demonstrating how they have reached and involved a significant proportion of the local population.

Secondly, the proposed use of Planning Permission in Principle and Permitted Development Rights will confine consideration of affordable housing to technical matters. By this stage the developer will have already negotiated the land price which may be at a level that this squeezes out the possibility of delivering affordable housing, even under the proposed Infrastructure Levy. From a CLT perspective the failure to depress land value by leaving the decision on the amount and type of affordable housing until technical matters is likely to mean they are unable to compete for sites. We would propose that Local Plans should continue to include policies, not just text, that sets % of affordable housing that should be delivered in their area; these should be determined and incorporated into the zoning process; the Infrastructure Levy should be determined locally, with a proportion ring-fenced for affordable housing to meet the Local Plan's requirement for its delivery.

Thirdly, whilst we agree that national policy and the Local Plan should require, and guide, high quality development, we consider that this is best achieved where there is also the opportunity for early discussion and negotiation with Development Management planners. This is particularly important for CLT and community led housing schemes where viability is often tight, in part because of the high standards they want to achieve and the sometimes small and constrained nature of their sites. Negotiation and drawing on the expertise of Development Management planners means that often creative solutions can be found that deliver viable, high quality schemes, designed to be sensitive to local circumstances.

Proposal 6: Decision-making should be faster and more certain, with firm deadlines, and make greater use of digital technology

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

[Yes / No / Not sure. Please provide supporting statement.]

Not sure.

We welcome the intention to create a faster and simpler decision-making process. As set out in our response to proposal 5, this will help reduce costs and speed up delivery for CLT development. However, there is a lack of or slow access to broadband in some rural areas and in some deprived communities. It also excludes those without IT skills or other disadvantaged groups such as those who are visually impaired. The focus on digital mechanisms and processes could thereby undermine the Government's aim for greater

community engagement in the planning process. We would therefore urge that the Government consider, as part of the Spending Review proposal for modernising planning systems in local government, making it a duty for local planning authorities to proactively engage those that have limited access to broadband.

Proposal 8: Local authorities and the Planning Inspectorate will be required through legislation to meet a statutory timetable for key stages of the process, and we will consider what sanctions there would be for those who fail to do so.

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

[Yes / No / Not sure. Please provide supporting statement.]

No.

We fully support the desire to ‘bring democracy forward’ and to improve community involvement in the preparation of Local Plans. We believe that better involvement at this stage will improve the content of Local Plans and local confidence in them.

Our chief concern though is that only 6 months is to be made available for stage 1, the plan-shaping stage, which is glaringly inadequate if it is to allow for meaningful engagement and not just be the ‘usual suspects’ but by all parts of the community. In our view the default practice at present is woefully inadequate and will need to be significantly improved if the aim is to meaningfully ‘bring democracy forward’ so that community input into the Local Plan can be sufficient to then justify removing it community input in development control decisions.

While there has been exemplary practice in the recent past, this tends to work best when well resourced, with imaginative ways to organise and develop the capacity of the local community to engage. It is not just a matter of producing digital tools (and we note above that many people are currently digitally excluded, especially in deprived and rural areas). These methods also require considerably more than 6 months.

For comparison, the Nationwide Building Society employed a community organiser for 18 months to develop the capacity of the community to engage in and influence their plans for a large development called Oakfield in Swindon, before the planning application was submitted. Existing voluntary organisations and council forums would not have reached most of the residents in that part of Swindon. The application received no objections. We Can Make, a community led housing project in the south of Bristol, worked with artists to creatively map the housing needs and resources of the Knowle West area, using a variety of creative means over considerably more than 6 months to engage this deprived and diverse

community. Through this they have not only identified the potential for 1,500 infill developments, but also created a Community Design Code.

Shropshire Local Planning Authority, as part of the development of their Local Plan, employed an officer to work with rural communities for over a year to support them to identify their current sustainability, using the Bristol Accord metrics. From this communities identified the scale and type of development they required to become or maintain sustainability. Those communities that could then appropriately grow were identified in the Local Plan.

The Government should consider how it can raise the game of Local Planning Authorities. We therefore propose:

1. Adequate funding to Local Planning Authorities to conduct meaningful engagement activities that reach all sectors of their community;
2. At least 1 year for this process, particularly the work required to organise and build capacity in the community to first engage;
3. A requirement for Local Plans to include a more robust Statement of Community Involvement, demonstrating how they have reached and involved a significant proportion of the local population, and how they have changed their proposals in the light of consultation and community input, as is currently required for Neighbourhood Plans.

As set out in our response to Proposal 1, meaningful community engagement in plan shaping will only come about if local people are given a tangible stake in what is developed through the local plan. We therefore support the calls from Stephen Hill of C2O Futureplanners and others to introduce a new concept of **Community Priority Projects** (CPPs) which would allow local people to propose a site/area allocation in the local plan for specific developments or services that have a spatial dimension as chosen by the community - for example, libraries, community centres, community shops, workspaces, community led housing, heritage buildings and so on. The proposal is that CPPs should be included in Stage 1 of the new proposed Statutory Timetable. Local Planning Authorities must have regard to CPPs in formulating their Local Plan proposals in Stage 2, by making policies and land allocations for each of the proposed Growth, Renewal and Protected Areas where proposed CPPs will achieve desired social, economic and environmental outcomes in those communities and make a contribution to overall Local Plan objectives.

The process of identifying Community Priority Projects would be done in stage 1 and could involve a call for Community Priority Projects and a Citizen Assembly type co-production process with the local authority to refine community priorities. The Stage 1 call for

Community Priority Projects could also provide the opportunity to ensure that the purposes of the community rights supported by the Localism Act - namely Assets of Community Value and the Community Right To Build - are aligned and integrated more effectively within local spatial planning policies. This would help increase their uptake and impact alongside the already successful Neighbourhood Plan programme.

Proposal 9: Neighbourhood Plans should be retained as an important means of community input, and we will support communities to make better use of digital tools

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

[Yes / No / Not sure. Please provide supporting statement.]

Yes.

We welcome the proposal that Neighbourhood Plans (NPs) should be retained. Neighbourhood Plans (NPs) have been a significant success and are excellent examples of the sort of positive and genuine community involvement that should now be seen in the Local Plan process.

However, we are concerned that the White Paper proposes a potential narrowing of scope of NPs with an emphasis largely on design. This seems to contradict the Government's ambition to bring democracy forward and increase community involvement. NPs are more than design guides. Their success is that they engage the community in discussions on the nature and scale of development that is then reflected in the policies and site allocations included in NPs. As Locality points out in their consultation response, the main reason many communities get involved in neighbourhood planning is the ability to bring forward development, including housing. As part of that, many have become important springboards for community led housing, allocating sites for community led housing and putting in place enabling policies. This is because many communities that have NPs want to ensure that the housing developed is done so in the way they envisaged in their plan. It is vital that NPs continue to provide the opportunity to bring forward development.

The proposals already seem to be undermining an appetite amongst those engaged with NPs to be involved in the new reforms - Cheshire Community Action, whose survey found that on average each NP involves 2,800 volunteer hours, have already noted such a decline in interest. In light of that it is vital that the Government provide clarification on the intended scope of NPs at the earliest opportunity.

Question 13(b): 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?

As set out in our answer to 13(a), we are concerned about the potential narrowing the scope of NPs to be purely concerned with design. NPs play a valuable role in a wider range of local issues. Given the likely limitations of community engagement in the Local Plan, there is an opportunity to continue 'bringing the democracy forward' at the local level by continuing to allow Neighbourhood Plans to further develop the Local Plan in the local context.

We have proposed in our answer to Question 5, for example, that NPs should be able to allocate sub-areas for community led housing and affordable housing.

We also propose that 'design' is understood in its broadest sense, both in Neighbourhood Plans and the national and local design codes. While we agree that beauty and aesthetics are important to local communities, so too are design matters such as space standards, accessibility, transport, energy and ecology.

As set out in our answer to Question 10, focusing on digital tools can end up excluding some communities and residents and undermine the vision for community engagement.

Proposal 10: A stronger emphasis on build out through planning

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?

[Yes / No / Not sure. Please provide supporting statement.]

Yes.

We support the proposal that sites prepared for substantial development should include a variety of development types by different suppliers, as supported by evidence from the Letwin review. CLTs and other forms of community led housing organisations are themselves SMEs and so will welcome this opportunity. They are also important customers of SMEs, working with local builders and, where CLTs do self-build, working with specialist trades and suppliers, so Government support for community led housing will translate to important local support for SMEs across the country.

However it is vital that there are measures to ensure that the wider substantial development takes place in a timely manner, including the provision of infrastructure that then allows the development by SMEs or community led housing organisations to proceed.

To also support faster build outs we propose that the Government consider allowing a fast track for community led housing development with demonstrable community support, as set out in answer to Question 5.

Pillar 2

Proposal 11: To make design expectations more visual and predictable, we will expect design guidance and codes to be prepared locally with community involvement, and ensure that codes are more binding on decisions about development.

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

[Yes / No / Not sure. Please provide supporting statement.]

Not sure.

We support the proposal to ensure that the development of local design guidance and codes involves members of the community. Some CLTs are already leading on such initiatives. We Can Make in Knowle West, Bristol, have facilitated a co-design process with residents to produce a community design code that sets out the high quality design local people want. Similarly, Lavenham CLT developed a design code for their town and subsequently set up a CLT having been inspired by the process. It will be important however to set out what the Government means by community involvement in design guidance and codes, including best practice examples, as not doing so risks poor levels of involvement in practice.

It is also not clear whether local design guidance and codes will be limited to purely aesthetics matters. As noted above, design codes should also cover matters such as space standards, accessibility, transport, energy and ecology, if these are not adequately covered in Local Plan policies.

Local acceptance or support for new development is not purely driven by whether the homes are aesthetically pleasing. For example, a poll by YouGov in September 2020 found that building more social/council housing was rated as the second highest local priority by respondents⁴. Local opposition to new development is often motivated by a perception (or reality) that the homes are unlikely to be affordable to local people, particularly those who most need a better home.

We have found that CLTs are able to mobilise popular support for new homes amongst communities as well as landowners, conservationists, environmentalists and employers because they are led by the community, are trusted by the community, and because they are providing homes that meet the needs of local people. Recent research we commissioned by Capital Economics found that in 10% of cases community groups have developed sites which local opposition had previously prevented.⁵

⁴ YouGov survey, online, 18+. England sample size was 5,177 and results weighted to be representative of England's population. Fieldwork dates were 4th - 7th September 2020

⁵ Capital Economics 'Housing by the community, for the community: an assessment of the value for money of

We therefore urge that national guidance on local design guidance and codes includes the option to encourage particular ownership models for housing including CLTs.

Of course building to certain standards can involve higher build costs. Where these standards are required for the development of affordable housing there may be a need for funding/subsidy to enable groups to meet the higher standards. Combining this with the Infrastructure Levy proposals could reduce the number of affordable homes that can be built. As set out in answer to Questions 22 onwards, affordable housing developments should be made exempt from the Infrastructure Levy.

Pillar 3

Proposal 19: The Community Infrastructure Levy should be reformed to be charged as a fixed proportion of the development value above a threshold, with a mandatory nationally-set rate or rates and the current system of planning obligations abolished.

***Question 22(a): 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?
[Yes / No / Not sure. Please provide supporting statement.]***

No.

We fully agree that there are problems with the current system of Section 106 planning obligations - that they are subject to negotiation and therefore uncertain and can cause delays - and that we need a new more effective system with standardised procedures to address these issues. However, we cannot support the replacement of CIL and Section 106 with a new consolidated Infrastructure Levy (IL) principally because of the potential impact on the delivery of affordable housing.

Whilst we welcome the intention to ensure the IL secures at least current levels of on site affordable housing, there is no supporting evidence to suggest that that will be achieved through the proposals and we are concerned that the proposals will in fact undermine the ambition.

In particular, there is a risk that in low value areas, where schemes may fall below the de-minimis threshold, no IL will be applied and that there will be no contribution towards

community led housing in England', September 2020. Page 20.
<https://www.communityledhomes.org.uk/sites/default/files/resources/files/2020-09/final-report-capital-economics-housing-community-community-sept-2020.pdf>

infrastructure or affordable housing. In these areas, affordable housing is still required for those on low incomes, and the development of social or affordable rented housing can be unviable without (at present) section 106 contributions. This is particularly crucial for the 'levelling up agenda.

Similarly, there is the suggestion that no IL would be applied during a downturn to reduce the risk for developers. Not requiring a contribution to affordable housing could in fact make it harder for SMEs to operate as, as found during the 2008 recession, it was the guaranteed sales for affordable housing that supported cash-flow and kept local builders in business.

Furthermore, it is unclear how affordable housing will be provided on small sites that fall below the de-minimis threshold. Such sites provided a significant source of supply of sites for CLTs in rural and urban areas. As we set out in our response to the consultation on 'Changes to the Current Planning System', the current requirement to build on-site affordable housing reduces the land price and thereby makes it possible for CLTs to compete with developers for these sites. Not applying the IL charge on small sites would increase the land price and make it considerably harder for CLTs to compete with developers developing homes for sale - developers will be able to offer a higher price for a site than a CLT.

It is not clear whether IL will be charged on affordable housing, including 100% affordable housing schemes. Many CLTs develop 100% affordable housing sites, where viability can be very challenging. Charging IL on these sites would reduce the number of affordable homes that can be developed, including if it was charged on any market housing being developed to cross-subsidise the scheme. It also means taxpayers' money in the form of grant funding for housing will be diverted to pay for infrastructure.

We urge that the new IL exempts affordable housing and any housing on community led housing or rural exception sites where the market sale homes are cross subsidising the scheme to make it viable.

Our other concern with removing Section 106 is that Section 106 delivers more than just affordable housing. It secures the perpetuity and local occupancy of affordable homes which, because they are legal obligations that go with the land, are stronger than planning conditions. This is critical for meeting the NPPF's definition of rural exception sites, which many CLTs develop on. Furthermore, the obligations secured through Section 106 are required to meet the statutory definition of a CLT - to keep homes permanently affordable - to motivate people to set up a CLT in the first place and to make the development acceptable to the local community.

We are interested in the alternative mentioned on page 63 of capturing more land value but are unclear of the detail and how it would work.

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

[Nationally at a single rate / Nationally at an area-specific rate / Locally]

The levy rates should be set locally as land values vary significantly across the country with some areas being able to sustain far higher contributions than other parts of the country.

Question 22(c): 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?

[Same amount overall / More value / Less value / Not sure. Please provide supporting statement.]

The IL should aim to capture more value on average across the country, but as noted the amount will vary from one part of the country to the next.

Proposal 21: The reformed Infrastructure Levy should deliver affordable housing provision

Question 24(a): 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 / No / Not sure. Please provide supporting statement.]

Yes.

It is vital that the new proposals secure at least the same amount of affordable housing under the IL and at least the current levels of on-site delivery.

However, there is no supporting evidence that demonstrates that the proposed approach will achieve that. There is no requirement that residential developments provide affordable homes and no requirement for local authorities to set a target for the number of affordable homes to be delivered or the tenure mix of those affordable homes. These should be set locally based on strategic housing market assessments or similar.

The proposal to flip homes during a downturn back to market housing in the event that levy liabilities are insufficient to cover the value secured through the in-kind units could impact negatively on SMEs - that is precisely the time when affordable housing can support the cash flow for SMEs.

Furthermore, if cash payments are taken instead of buying the poor quality affordable housing then there are risks that it won't result in the delivery of affordable housing.

Question 24(b): 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? [Yes / No / Not sure. Please provide supporting statement.]

No. It should be provided in-kind and on site.

Our chief concern with the Right to Purchase is that the developer could choose which homes to sell to the local authority or registered provider, which could undermine the ability of the local authority to meet local needs.

Proposal 22: More freedom could be given to local authorities over how they spend the Infrastructure Levy

Question 25: Should local authorities have fewer restrictions over how they spend the Infrastructure Levy? [Yes / No / Not sure. Please provide supporting statement.]

No.

The permitted uses of the IL should remain focused on infrastructure and affordable housing as there is a major risk that, should it be broadened, it will impact on the delivery of affordable housing that is chronically needed in many areas.

We fully support the proposal to retain the Neighbourhood Share. One way to enhance community support for development is for the NPPF to positively encourage that the share is invested in community-led housing developments that bring about affordable housing. This would ensure that the funding remains in the community and benefits local people - a key reason why CLTs are able to mobilise popular support for development.

25(a). If yes, should an affordable housing 'ring-fence' be developed? [Yes / No / Not sure. Please provide supporting statement.]

Yes.

It is critical that current levels of affordable housing provision are at least maintained and not reduced at the expense of competing infrastructure priorities.

3. Response to section 'Delivering change'

- 3.1. We very much welcome the proposal that a new cross-government strategy on public land will explore how it can support CLTs, amongst others, to identify public land opportunities.
- 3.2. Recent research by Capital Economics⁶ confirms that in urban and rural areas groups acquire around 70% of sites and 30% of sites, respectively, from local councils. Our own research last year found that whilst some councils have been very supportive with land disposals - Bury, Gloucestershire, Hull, and Liverpool councils have between them made 51 land disposals to community led housing groups - just nine per cent of councils overall had made any land disposals to community led housing groups. Clearly, there is significant potential for more local councils but also other public bodies to support groups via the provision of sites. We welcome engaging with the Government on the review.
- 3.3. We support Danny Kruger MP's proposals to the Prime Minister of a Community Power Act. This could build on the Localism Act and address the shortcomings of its powers, and of subsequent policies like the Right to Contest. These powers are both bureaucratic and ineffective. We would support powers to buy land in England and Wales similar to those in Scotland, including the pre-emptive right to buy land at an independently valued price, and the right to compulsory purchase where the existing land use is causing a significant detriment to local wellbeing. Such powers could be significant in left-behind communities, where community-led housing groups are active and could bring considerable entrepreneurial energy to level up their community.

⁶ Capital Economics 'Housing by the community, for the community: an assessment of the value for money of community led housing in England', September 2020.