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Thank you for consulting the Council on the White Paper *Planning for the future*, which is linked to the *Changes to the current planning system* consultation. Further to our response in respect of the latter on 29th September 2020, this response focuses on White Paper proposals which are subject to consultation until the 29th October 2020.

Havant Borough Council is at Regulation 19 stage in preparing its Local Plan and is preparing to submit its Plan early in the New Year. This response details a number of proposals in the White Paper which would result in a significant adverse impact on Havant Borough. We urge the Government to review our concerns and act to safeguard and protect such areas as Havant accordingly.

1) Penalisation of Local Planning Authorities

- 1.1 Havant Borough Council is a pro-development local authority with an ambitious regeneration agenda and a history of swift action to get local plans in place. The Council has worked tirelessly to get to a position of presenting a sound, well evidenced and justified Local Plan that can achieve its annual housing need figure of 504 dwellings over the plan period. Many other authorities are in a similar position. Yet the Government's proposal to alter the way local plans are prepared could hinder proactive LPAs such as Havant in getting a Local Plan in place. Rather than proposing significant changes, a more fruitful approach would be to refine the current system and put in place a system of enforcement to ensure that NPPF compliant plans are in place swiftly.
- 1.2 Local Plans have evolved over many years. Due to Government requirements and changing requirements, they have become the increasingly longer and more evidenced documents that they are today. Plans of this detail take time to create, assess, review and submit and many LPAs like Havant are in a position of submitting theirs imminently after many years of work. The Plan is tailored and bespoke to the issues and opportunities facing Havant and sets out a comprehensive development strategy to securing high quality development in the Borough.
- 1.3 To propose a radical change to the zoning of areas would mean a complete overhaul of this work and research with little to none of it relevant in any future plan. Furthermore, in order to accommodate the new changes proposed it would place LPAs such as Havant in a weaker position to defend speculative development, and ability to create beautiful and sustainable places that Government desire for people to live.

- 1.4 It is asserted that these changes in the White Paper are needed to ‘speed up’ the overall development process. However, it is considered that Local Plans and LPAs are not the primary reason for delay in housing delivery (please see point 5 in further detail). Making such changes to the way in which Local Plans are prepared would slow progress, result in uncertainty for the development industry and local communities, and ultimately delay housing delivery. Essentially, it would penalise those LPAs working effectively to bring sound Local Plans and development proposals forward for adoption.
- 1.5 It is therefore considered that the significant changes proposed within the White Paper should not be taken forward, as it alters something which does not need to be changed.
- 1.6 Havant Borough Council would support the proposal in the White Paper to abolish the Sustainability Appraisal given the time effort and resources involved. This was a useful assessment when judging alternative strategies to achieve a development target – it is no longer relevant.

1(i) Automatic outline of planning permission

- 1.7 It is considered that by removing the opportunity for scrutiny of a developer’s detailed proposal at planning application stage would have a number of implications. Firstly this could lead to more detailed and potentially unnecessary design work being completed and required earlier in the planning process and within a very short period of time. Developers and landowners would also need to commit significant resources to provide the detailed proposal before the principle of land allocation had been established which would have significant cost and time considerations.
- 1.8 These alterations would likely require more detailed and potentially unnecessary community engagement prior to local plan allocation but would, at the same time, reduce public engagement significantly in the detailed design stage of proposals which is unlikely to be supported. All of these factors would prohibit and delay the process of preparing a local plan that would be fit for purpose to grant outline planning permission.

1(ii) Simplified plans and the creation of ‘zones’

- 1.9 The lack of local context and interpretation of a simplified Local Plan would make it harder for the local community, developers and other stakeholders to understand local issues and circumstances. The plan could also lose its overarching scene setting and strategic place-making role. The proposed alterations could result in a fragmentation of the local plan to a series of links and signposts (to a variety of national policies, data and guidance) and therefore the cohesiveness of a Local Plan would be diminished.
- 1.10 There would be reduced opportunities for public and developer engagement in the plan-making process and no opportunity for local planning authorities to change the plan in the light of consultation responses. Having just three potential area designations would be overly simplistic. Further consideration is required on what type of designation constitutes a Growth, Renewal and Protection Area. It is noted that the White Paper provides some examples of what would be included in each designation but it would be advised that this

needs further consideration as not all designations fit neatly into one of the three categories.

1(iii) Financial costs associated with the changes

- 1.11 The white paper mentions costs alongside the proposed changes rarely but it is acknowledged that the cost for the proposed works by the Government would be significant. It is considered that this has not been outlined at this stage as potentially financial figures are not certain or it is not known how this will be funded however, the cheaper and affordable alternative would be to retain the majority of current processes and instead invest some funds into enforcing current protocols and procedures.

2) Community Infrastructure Levy/ Infrastructure Charge

- 2.1 The Community Infrastructure Levy (CIL) was introduced by the Government and made compulsory for LPAs to adopt in April 2010. As a pro-active Council, Havant was one of the first authorities to introduce the levy and starting charging for this in August 2013. However, not all authorities have taken this approach and the levy is not being used consistently across LPAs.
- 2.2 The levy itself, as with any new process (combined with it being alongside development construction timeframes) takes time to create a financial output. As such, Havant Borough Council is only recently starting to see significant sums of money available for spending from CIL. We have collected £9,584,460 in contributions since 2013. Since this we have spent and put back £1,520,060 into the Borough. All but approximately £150,000 of the remainder are allocated to other projects within the Borough including coastal defences, a new railway footbridge and highway improvements. More recently, CIL funding has also been used as match funding for a combined bid to the Transforming Cities Fund, in collaboration with Hampshire County Council, using CIL as a means of leveraging in further funding and maximising the benefits from both CIL and wider Government infrastructure funding. Many of these projects rely on input/finances/infrastructure from other parties and therefore can take some time before the CIL money can actually be spent. However, the money has been allocated for spend and does show how well CIL is working in Havant but also the long lead in times that extensive infrastructure projects can have.

Further information can be found here:

<https://havant.moderngov.co.uk/ieListDocuments.aspx?CId=128&MId=10861>

- 2.3 The levy is not a hindrance of the planning system and our experience demonstrates that CIL works in practice. The delay in collection of monies is instead a reflection of the timeframes for commencement of development and is an area which LPAs have no control over or are able to 'speed up'. There seems to be little appreciation of these lead-in timescales in the White Paper. The levy is now an established part of the development process in the UK and is well known to the development industry. It is considered that changing this levy will do the opposite of speeding up the process.
- 2.4 Reforming the CIL system and introducing a National Infrastructure Levy would take every single LPA back to square one. Most LPAs are in a position where they are collecting

significant funds and spending it in their areas effectively. LPAs and developers would also need time to understand, create and implement the new system.

- 2.5 Making a change to the levy would mean that the financial outputs created by CIL under the current system would not be seen for number of years. It is anticipated that it would take a minimum of at least three years for a pro-active and fast acting council such as Havant to implement the new system. If the Government were instead to retain the current CIL system, then they would continue to see authorities such as Havant collecting and spending funds. This would mean that further authorities that are behind Havant in adopting CIL (or not yet started) would also adopt charging schedules. This would take a shorter amount of time and enable financial outputs to continue to be created.
- 2.6 Havant would urge the Government to retain the existing CIL regime, requiring and enforcing its rollout across the country for these reasons.

3) Habitats Regulations

- 3.1 The White Paper makes only a passing reference to strengthen protections to species, habitats and ecosystems of national importance, and that matter most to local communities. Specifically, there is an apparent lack of detail about what will happen to the Habitat Regulations¹. The lack of detail surrounding habitat regulations within the paper causes concern as every proposal for new housing must address the Habitats Regulations. With the end of the transition period in sight, this increases concern over the on-going protection of habitat regulations in England and the Government should be making its position clear within the White Paper in regards to this.
- 3.2 The Habitats Regulations mean there are extensive responsibilities conferred on the Council as a 'competent authority'. Chiefly, it requires the Council to only approve plans or projects (such as planning applications or a local plan) if there is no likelihood of a significant effect on any European designated nature conservation site. Notably the Solent Special Protection Areas (SPA) support internationally significant numbers of waders and Brent Geese during the winter months and are designated as being of international importance. There is therefore concern that a "*quicker, simpler framework for assessing environmental impacts*" would effectively mean revocation of the Habitat Regulations.
- 3.3 Clearer guidance on the implementation of these regulations would be welcomed so that there is less likelihood of case law resulting in extensive changes effectively overnight, as has happened recently with the *Dutch Case*. There are two key impacts which principally affect development in Havant Borough: recreation and water quality (nutrient neutrality).
- 3.4 The Council is a member of the Bird Aware Solent Partnership – a multi award winning strategic framework for addressing recreational disturbance to wintering birds on the Solent coast. The Solent Recreation Mitigation Strategy has been implemented through this partnership since 1st April 2018 and provides an appropriate mechanism for mitigating recreational disturbance to the SPAs created by new residential development.

¹ The Conservation of Habitats and Species Regulations (2017 as amended)

- 3.5 In terms of nutrient neutrality, the Council published a Position Statement and Mitigation Plan on the 18th August 2020 which sets out the Council's approach to nutrient neutral development. This includes a strategic off-site mitigation package which can be used by applicants in order to mitigate the likely significant effect on Solent European sites.
- 3.6 Importantly, the mitigation packages for both recreation and water quality are secured at the granting of planning permission through Section 106 agreements or a unilateral undertaking. At the point of assessing the impact through a local plan, the strategic solutions are known and calculated. However, without the ability to secure the mitigation packages from a housebuilder, it would not be possible to remove those significant effects.
- 3.7 The proposal to introduce and alter local plans whereby all allocated sites included within the plan come with an 'acceptable in principal' decision would have a significant and adverse impact on collecting mitigation for habitat regulations. The Government should be making it clear if it would be possible to collect these through this new proposed levy, the existing S106 or something new entirely.
- 3.8 In a worst case scenario, regulations could be changed in a way that would make it impossible for mitigation packages to be secured and no housebuilding could take place. Alternatively, they could be altered in such a way that it is significantly slowed down. The current use of Section 106 and other legal agreements is fundamental to ensuring that strategic mitigation schemes that address Habitats Regulations constraints can operate successfully. The Council urges the Government to retain this tool.

3(i) Planning obligation reforms and certainty of mitigation

- 3.9 The White Paper envisages the current system of planning obligations being reformed and replaced with a national "Infrastructure Levy" by means of a single flat rate. However, under the above strategies, mitigation is purposefully secured by means of a financial contribution by a legal agreement under Section 106 of the Town and Country Planning Act. This is because CIL is not appropriate for mitigation sought under the Habitat Regulations as there is no certainty that monies sought from the development would be used for that purpose. As such, a nationally-set value-based flat rate charge, in the form of an "Infrastructure Levy" would not be appropriate for the following reasons:
- A. The purpose of an infrastructure levy is to raise funds to provide new infrastructure needed to support new development. However, the measures set out by the mitigation strategies do not fall within the definition of "infrastructure" in the 2008 Planning Act.
 - B. It may be possible for some developments to provide mitigation on-site, and will not therefore need to contribute to a mitigation scheme. A small number of developments will fall outside of the SPA zone of influence and will not therefore need to provide mitigation. As such, it would be unreasonable to expect development to mitigate an impact 'twice', or where there is not an impact.
 - C. The changes to the CIL regulations on 1 September 2019 effectively remove 'pooling' restrictions for particular projects. It would therefore be impossible to guarantee that CIL funding could be ringfenced for these projects, and that costs could be fully recovered.

- D. As competent authority under the Habitat Regulations, the Council has a legal duty to ensure that the mitigation can be provided and secured in perpetuity. Without the necessary legal certainty that funds could be secured, the Council and its decisions would be open to risk of legal challenge, including judicial review.

4) Housing/Standard Housing Method

- 4.1 Havant Borough Council understands the Government's agenda to significantly boost housing supply. However, the proposed alterations to the standard method for calculating housing need, alongside a number of other aspects (which are considered in detail below) would create an unachievable housing figure for Havant Borough Council. As I'm sure you can appreciate, this is a worrying time and concerning position for many Local Planning Authorities (LPAs) and their local communities, particularly with the proposed abolition of the Duty to Cooperate as a means of meeting unmet housing need. The proposed revised standard housing methodology would mean an annual housing figure of 963 dwellings per annum for Havant Borough. This represents over a two fold increase (463 dpa) from the housing need figure included in the Regulation 18 Draft version of the Local Plan (which was consulted upon following the publication of the proposed standard method in 2018), and over a threefold increase (315 dpa) from the latest adopted housing requirement in the Core Strategy (2011). This is a significant increase which is unachievable within the constraints which exist, which are strongly protected by the Framework in terms of setting out where development should be restricted.
- 4.2 The emerging Local Plan demonstrates that it is able to meet the Borough's housing need (504 dwellings per annum), under the current standard method within the extent of environmental constraints which exist in Havant borough. However, this is only meeting the Borough's objectively assessed needs as a minimum, and with very limited flexibility over the plan period. This is despite the Council's efforts in continuing to assess the suitability of sites to ensure the Borough is able to meet its housing need throughout the production of the emerging Local Plan.
- 4.3 The Government's proposed approach to *Planning for Homes in the Right Places* consultation recognised the importance of ensuring that proposed housing need is as deliverable as possible. It is therefore impossible to conclude the housing need figure under the revised housing method of 963 dwellings per annum for Havant Borough would be achievable.

4(i) Duty to Cooperate

- 4.4 We have a strong track record of successfully operating the Duty to Cooperate as a member of the Partnership for South Hampshire (PfSH). The Partnership as a means of addressing cross-boundary planning issue has existed since 2003, pre-dating the duty to cooperate in fact. The partnership works effectively and proactively to address cross-boundary issues which is vitally important with the ever increasing housing need in the context of environmental designations and limited land for development. It is strongly contended that a mechanism for the Duty to Cooperate is retained in order that South Hampshire's local authorities are able to effectively and proactively address the need for housing in the sub-region.

- 4.5 The removal of the 'Duty' would act as a barrier to achieving sustainable development, in the context of the housing need resulting from the revised standard method. Where need cannot be met within the environmental constraints set out by Footnote 6 of the NPPF, the Duty provides the ability for unmet need to be provided for by neighbouring authorities. Havant Borough Council would strongly advise the Duty as it currently provides a valuable facility and option for LPAs to support each other in housing delivery. This is especially true as the housing need figure for some LPAs within the Partnership has reduced, with others, like Havant, have significantly increased. There must be a mechanism to address those situations where a local authority can demonstrate that it cannot meet its need for housing.
- 4.6 Even with this though, there is a finite amount of undeveloped land in the Havant Borough which means it would still not be enough to meet the new figure. Even if all omission sites for our emerging Local Plan were included (and there are robust reasons why each has not been), it would still not come even close to delivering this scale of housing.

4(ii) Housing Cap

- 4.7 Under the existing standard housing method a cap of 40% is applied to the local housing need to ensure the housing requirement does not increase over an unachievable amount. The proposed new standard method removes this mechanism for some modest control and would mean that an even higher amount of housing would and has been calculated. This is part of the reason and concern Havant's figures are as high as they are. It is strongly recommended that the cap is reintroduced in order to produce this safeguard.
- 4.8 Under the revised standard method, the Borough's housing need increases from 504 dwellings per annum to 963. A cap would limit this to no more than 704 dwellings per annum. It would be impossible to deliver this scale of housing having regard to the constrained nature of the Borough and finite land that is available. However the cap, together with the duty to cooperate, would give a realistic way that a modest increase in the need for housing could be accommodated realistically.
- 4.9 Whether by coincidence or design, the cap also recognises that housebuilders will only release a certain number of new homes onto the market at any one point. They will obviously not flood the market. Suggesting a doubling of housebuilding would flood the market. Unless requirements are in put into place to force the private sector to deliver new homes, which is ultimately not seen as achievable, the market will fall well short of the level of delivery required.
- 4.10 Maintaining a cap on increases to the need figure will mean that market dynamics are recognised in this process. A cap must be maintained.

4(iii) Revised Standard Method

- 4.11 The housing need figure for Havant Borough derived under the existing standard method that has been applied to the Local Plan and the Council's housing trajectory is considered to be achievable. This is despite year on year increases to the objectively assessed housing need figure throughout the production of the emerging Local Plan (463, 479, 486 and 504 dwellings per annum in 2017/18, 2018/19, 2019/20 and 2020/21 respectively), and an increase in housing need figure by two thirds relative to the latest adopted housing requirement in the Core Strategy (315 dpa).

- 4.12 The proposed change in approach to use the latest projected annual household projections averaged over a 10-year period (as opposed to the 2014-based household projections) is supported in principle. However, it should be noted that further releases of household projections may lead to uncertainty for local planning authorities and local communities in planning to meet their housing need for their area. For example, the changes in assumptions in the 2016-based household projections lead to significant volatility due to the resulting much lower population projections. Further safeguards or other adjustments to the overall methodology are needed in order to provide certainty and stability in planning for housing delivery.
- 4.13 It is accepted the assessment of housing need should address the affordability of homes, and therefore projected household growth should be adjusted to take account of market signals. Nevertheless, the revised standard method does not provide any guidance about what a target affordability ratio should be. Furthermore, it fails to address the need to balance the social and economic need for housing with environmental constraints. The environmental constraints in Havant Borough mean there is a finite amount of land available for development in Havant Borough. However, these environmental constraints are also assets in making Havant Borough an attractive area to live, work and visit.

5) LPAs causing a delay to development

- 5.1 Havant Borough Council does not consider that Local Planning Authorities (LPAs) are delaying the development process. Planning applications for high quality new homes must be submitted with robust clear information to achieve beautiful and sustainable development.
- 5.2 As a council we prepared a Position Statement known as the 'Local Plan Housing Statement' which identified sites which were considered capable of accommodating sustainable development in advance of the emerging local plan. This measure was used in order to significantly boost housing supply and ensure a five year housing land supply was maintained whilst the new local plan was prepared. Measures such as these could be used more widely at a local level to enforce and improve the effectiveness of the current system. However, out of all of the sites in the Housing Statement, only two were granted planning permission under its jurisdiction as housebuilders delayed in submitting proposals for more than two years.
- 5.3 Changing the method for calculating housing need could therefore be interpreted as the Government seeking to lower the quality of housing for the Borough. However, increasing the housing need figure will not achieve the stated objectives in and of itself. More incentives need to be provided to motivate developers to bring forward their sites for high quality development. Once planning permission is granted, housebuilders must swiftly start construction and releasing properties onto the market. Altering the standard method only serves to hinder the Government's objective of achieving sustainable development.
- 5.4 In April 2019 there were 1,701 dwellings with outstanding permissions which was enough to meet the Boroughs housing need figure (486) 3.5 times over but only around a fifth of these were built during 19/20 (366). This point is made to demonstrate how much Havant Borough Council are permitting and allowing development but of which, not all comes forward. This is not down to the current standard housing method but is the responsibility of the applicants

and developers. Havant Borough Council would suggest that further work needs to be done to incentivise developers to build. Increasing the need for housing will not make development come forward any faster.

- 5.5 Further incentives are needed to motivate developers to build are needed, as opposed to creating housing need figures which are unachievable.

6) Conclusion

- 6.1 The Council is committed to developing a Local Plan that meets the Governments objectives. However, Local Plans should also promote sound, sustainable and beautiful development as well as creating policies to create and protect the historic and natural environment. It is felt that this has been effectively achieved in the current Local Plan and as such strongly support the retention of Local Plans under the current system. Changing Local Plans at this point would only cause uncertainty for the Borough and erode our ability to protect the Borough's most valuable environment assets that make the Borough what it is today.
- 6.2 The PfSH authorities have a strong track record in successfully operating the Duty to Cooperate. The removal of the Duty places Havant and other LPAs in a weakened and vulnerable position to deliver the housing needs for their area. The Council strongly urges the Government to re-think the abolition of its Duty, and contends that it would be retained, or that a new mechanism is introduced that supports effective cross boundary working.
- 6.3 There is a need for clarity in respect of the Habitat Regulations and whether it is the Government's intention that these are retained in their current form. Without a clear legal framework, the Council is concerned that the Government is putting the protection of international species and habitats at significant risk. This together with the infrastructure levy reforms has potentially significant implications in terms of the Council's ability to protect the environment whilst enabling housing delivery to go ahead.
- 6.4 The Council is committed to building high level, quality, sustainable homes, but this is only just achievable under the current standard method (with even a modest buffer). As a Council we recommend that it stays this way. We urge the Government to reconsider altering the standard method and the approach to revised standard method. The consequences of the proposed changes would be significant for a Borough such as Havant. Furthermore, they are simply impossible to achieve. The Council contends that safeguards are needed to prevent uncontrolled increases in housing need.
- 6.5 The current standard method also promotes and encourages development in urban areas rather than rural which the alteration of the standard method would force to be reconsidered. However, the reverse is true under the revised standard method. Maximising development in cities and large towns is in line with the three pillars of sustainable development enshrined in the NPPF and should be maintained through the standard method.
- 6.6 Overall, the Council's position is that Government should focus on refining and enforcing the current planning system. In this sense, proposals such as abolishing sustainability appraisals, standardised evidence base requirements are logical. Requiring CIL and local plans to be in place by certain deadlines would be welcomed. However substantial change will only penalise planning authorities such as ours that work tirelessly to achieve Government's aims whilst ultimately failing to achieve Government's stated objectives.

Yours faithfully

Cllr Gary Hughes

Deputy Leader of the Council and Cabinet Lead for Planning, Hayling Seafront Strategy
and Commercial Services