

**Tonbridge and Malling Borough Council response to the ‘proposed reforms to the National Planning Policy Framework and other changes to the planning system’ consultation
Published 30th July 2024**

Chapter 3 – Planning for the homes we need

Question 1

Do you agree that we should reverse the December 2023 changes made to paragraph 61?

No. Tonbridge and Malling Borough is subject to high level constraints, 20% of the borough is designated National Landscape, 11% is ancient woodland, there are 61 conservation areas and over 1300 listed buildings and scheduled ancient monuments. 70% of the borough is designated Green Belt including areas that serve Green Belt purposes.

In a borough like Tonbridge and Malling which has significant landscape, heritage, infrastructure and other constraints, it was already challenging to meet the need identified through the previous standard method. The council has been committed to identifying sites to meet its objectively assessed housing need through its emerging Local Plan. Based on past delivery rates and the availability of suitable land, a further increase in housing need requirements will create an even greater challenge. Revising the wording as proposed at paragraph 61 removes the flexibility that may be required for a constrained authority where it is likely to be unable to deliver the level of housing required, as set out through the use of a new standard method. The very fundamentals of town planning require one to assess constraints as part of a spatial strategy, so by simply proposing that Council’s apply a standard figure without taking into account those key local constraints including that relating to delivery, goes against the core principles of good planning and the potential to deliver sustainable development.

Question 2

Do you agree that we should remove reference to the use of alternative approaches to assessing housing need in paragraph 61 and the glossary of the NPPF?

No, the wording of former paragraph 61 should remain as drafted. The outcome of the standard method should remain an advisory starting-point for establishing a housing requirement for the area and an opportunity to test whether this can be delivered or not in consideration of constraints provided.

Question 3

Do you agree that we should reverse the December 2023 changes made on the urban uplift by deleting paragraph 62?

Whilst we note the revised method for identifying housing need, we consider that city regions and larger urban areas should seek to meet an increased housing need given that these are the most sustainable locations for growth.

Question 4

Do you agree that we should reverse the December 2023 changes made on character and density and delete paragraph 130?

Yes, we agree that it should be deleted for the reasons set out in the consultation and given that local design codes can address suitable densities alongside other relevant national policies such as those relating to design, heritage and landscape.

Question 5

Do you agree that the focus of design codes should move towards supporting spatial visions in local plans and areas that provide the greatest opportunities for change such as greater density, in particular the development of large new communities?

Yes. We support the revised focus towards localised design codes, masterplans and guides for areas of most change and most potential – including regeneration sites, areas of intensification, urban extensions and the development of large new communities. This will allow this work to be targeted and place specific and will also allow a greater opportunity to work collaboratively with site promoters in developing these, which could also make cost savings where developers are willing to frontload this work to support site promotion.

Question 6

Do you agree that the presumption in favour of sustainable development should be amended as proposed?

Yes, the revised wording clarifies the application of the presumption which is welcomed. We also agree that the location and design of development, as well as the provision of affordable housing be explicitly referenced. These are important considerations in weighing up the benefits of developments against any adverse impacts and could help to ensure that developments which are approved where the presumption is engaged, meet the high standards that we all expect.

Question 7

Do you agree that all local planning authorities should be required to continually demonstrate 5 years of specific, deliverable sites for decision making purposes, regardless of plan status?

No, changing the 5-year housing land supply requirements as proposed would undermine spatial strategies, where for example there is delay in site(s) delivery following adoption of a Local Plan. This would further undermine community confidence in the plan making process. The proposed change would remove the protection that adopted local plans have and therefore the ability to focus on delivering development in accordance with the local plan. Should a local authority find itself without a 5-year housing land supply then development coming forward that is not identified through the plan will also result in difficulties relating to strategic and community infrastructure capacity and delivery, should sites not allocated within Local Plans come forward in an ad hoc or piecemeal way.

A further consequence could be that council's place further reliance upon small to medium sites within the early years of Local Plan trajectories, to ensure that substantial upfront costs associated with strategic sites, don't delay sites building out. This may be detrimental to growth coming forward elsewhere i.e. in a more sustainable way that delivers community benefits, given that small to medium sites don't always bring the necessary infrastructure that may be required to support an increase in population.

To support a plan-led approach, it is imperative for authorities to be protected for a five-year period post adoption. Instead, additional resource should be made available to councils to

assist in overcoming delivery barriers, which often relate to the early-stage resolution of site costs or infrastructure delivery. In addition, there needs to be onus put on developers to deliver the sites once permitted. LPAs should not be in a position to deliver more housing where sites are not delivered.

Overall, continually demonstrating 5 years of specific supply will create a scenario which undermines the planning system and does not provide it with protection against challenges to land supply matters that may be outside the LPA's control such as developers delaying on build out rates.

Question 8

Do you agree with our proposal to remove wording on national planning guidance in paragraph 77 of the current NPPF?

No, past oversupply where this has been achieved should be able to be discounted against future housing need. Should there be opportunities and a willingness for local authorities to deliver housing over and above this, then delivering higher housing numbers would be possible.

Question 9

Do you agree that all local planning authorities should be required to add a 5% buffer to their 5-year housing land supply calculations?

No, restoring the 5% buffer will place further pressure upon planning authorities to maintain a larger 5-year housing land supply than is assessed as to be required. Where this can't be demonstrated it will further erode 5-year supply positions especially where up-to-date Local Plans are not in place. With the presumption engaged, this will lead to more speculative planning applications/unplanned growth that undermines a plan led system, placing further pressure upon already stretched development control teams and will lead to additional infrastructure co-ordination and delivery challenges, as infrastructure and service providers seek to address development impacts arising on a piecemeal or ad hoc basis.

An approach that may lead to more speculative development will also undermine the drive towards a 'plan-led' system with a focus on community engagement and will provide little incentive for communities to be involved in plan-making. This approach may also contribute to further issues between house building and infrastructure delivery. With an up-to-date Local Plan in place planning authorities will be in a stronger position to co-ordinate and direct growth in their areas. This proposal will undermine this aspiration.

Question 10

If yes, do you agree that 5% is an appropriate buffer, or should it be a different figure?

N/A as we do not agree with question 9.

Question 11

Do you agree with the removal of policy on Annual Position Statements?

No. The council has published annual statements which set out the council's 5-year housing land supply position, most recently doing so in December 2023. This is considered to be a helpful practice, especially for planning authorities that don't have an up-to-date Local Plan in place or a 5-year housing land supply. As such, the matter of the council's 5-year supply often

becomes a matter of debate in relation to the determination of individual planning applications and appeals. Whilst 5-year supply positions regularly change, published annual positions statements are considered a helpful base position to inform subsequent development management negotiations and decisions.

Question 12

Do you agree that the NPPF should be amended to further support effective co-operation on cross boundary and strategic planning matters?

Yes. We support the introduction of the wording at paragraph 27 which provides clarity regarding the scope of the duty. However, given the proposed revisions to the standard method and 5-year supply rules, it is a likely prospect in highly constrained areas such as West Kent, that one or more planning authorities reaches a position where they are unable to accommodate their identified need. Notwithstanding the retention of the duty, such issues could be challenging to resolve quickly for reasons, including the differential timing of Local Plan preparation and the timing of such conversations.

Question 13

Should the tests of soundness be amended to better assess the soundness of strategic scale plans or proposals?

No. We consider the tests of soundness as included at paragraph 36 to be suitable as drafted.

Question 14

Do you have any other suggestions relating to the proposals in this chapter?

No.

Chapter 4 – A new Standard Method for assessing housing needs

Question 15

Do you agree that Planning Practice Guidance should be amended to specify that the appropriate baseline for the standard method is housing stock rather than the latest household projections?

No, whilst we agree that a baseline set at 0.8% percentage of existing housing stock levels does provide a stable baseline, this is likely to lead to a growing baseline position over time as new dwelling completions add to the total dwelling stock. Whilst demand for housing will be satisfied this would not be taken into consideration in calculating any updated baseline position in the future, leading to a progressively growing baseline. We would prefer that the latest household projections are used.

Question 16

Do you agree that using the workplace-based median house price to median earnings ratio, averaged over the most recent 3-year period for which data is available to adjust the standard method's baseline, is appropriate?

Yes, we agree that using an average, rather than just the most recent datapoint, will help smooth out changes in affordability and will provide further stability and certainty in inputs and outputs of the method.

Question 17

Do you agree that affordability is given an appropriate weighting within the proposed standard method?

Yes, however the current standard method multiplier is 0.25% is appropriate. Adjusting the baseline stock figure upwards in areas where house prices are more than four times higher than earnings is not considered to be appropriate or realistic, due to the challenges of delivering additional housing at the local level, especially in more constrained borough's such as Tonbridge and Malling.

Question 18

Do you consider the standard method should factor in evidence on rental affordability? If so, do you have any suggestions for how this could be incorporated into the model?

No, as the availability of open market rental stock is affected by numerous factors other than the supply of new dwellings. This can't be influenced by the planning system, such as regulation and taxation upon landlords which in recent years has led to an increasing number of landlords and investors to consider leaving the sector, reducing the availability of stock available for rent.

Question 19

Do you have any additional comments on the proposed method for assessing housing needs?

No.

Chapter 5 – Brownfield, grey belt and the Green Belt

Question 20

Do you agree that we should make the proposed change set out in paragraph 124c, as a first step towards brownfield passports?

TMBC supports the principle of the brownfield first approach to meeting identified need, as this seeks to make the most efficient use of land. However, some brownfield sites may have high biodiversity value, for example due to the presence of Open Mosaic habitat on site, or other on-site issues such as contamination that should be investigated prior to accepting 'permission in principle' / fast track approval.

In addition, clarification is required as to the implications of sites with brownfield passports on plan making. It is currently unclear whether such sites would need to be allocated in the development plan or whether similar to Part 2 of the Brownfield Register, the site will be regarded as 'permission in principle and therefore falling outside the need to specifically allocate such sites in a Local Plan.

Question 21

Do you agree with the proposed change to paragraph 154g of the current NPPF to better support the development of PDL in the Green Belt?

TMBC recognises that the proposed change provides more flexibility when assessing proposals for infilling or redevelopment of previously developed land in the Green Belt, however it removes the affordable housing need element of the exception. Although paragraph 155 sets out the golden rules including in the case of schemes involving the provision of housing, that at least 50% affordable housing should be provided, this relates to major development and not all development. Therefore, there is potential for non-major sites to deliver less affordable housing than under the previous wording of 154g.

Question 22

Do you have any views on expanding the definition of PDL, while ensuring that the development and maintenance of glasshouses for horticultural production is maintained?

TMBC is a predominantly rural borough, with a diverse rural economy which includes glasshouses for horticulture, and these provide a valuable agricultural resource which the council would wish to see retained to help support the rural economy.

However, in some instances where glasshouses have remained unused for a prolonged period, and may have fallen into disrepair, then including them with the definition of PDL may provide suitable opportunities for redevelopment but this would need to be supported by viability testing and marketing evidence to demonstrate a lack of demand for the retention of the glasshouses for horticultural purposes.

The inclusion of hardstanding in the definition of PDL, could potentially increase the supply of land to meet identified need. However, the council would be concerned if all car parks were included within the definition of hardstanding as this could potentially lead to a loss of assets which provide a valuable resource to communities. Each case would need to be considered individually and be supported by viability and marketing assessments to demonstrate the land is no longer needed for its current use.

Question 23

Do you agree with our proposed definition of grey belt land? If not, what changes would you recommend?

TMBC is c.70% Green Belt. This designation to date has helped to restrict urban sprawl, prevent the coalescence of towns and villages and preserve the setting and character of individual settlements within the borough, whilst also supporting food production and security and providing opportunities for recreation and leisure to help support the health and well-being of our residents and visitors. The designation has shaped how the borough has evolved.

The borough also contains a number of other constraints, some of which fall outside of the Green Belt. The council welcomes the exclusion of those areas and assets listed in footnote 7 from the definition of grey belt. The preservation of these areas and assets of importance, along with a high percentage of Green Belt, provides challenges in the process of identifying sufficient land to meet our identified needs.

In seeking to meet our identified needs through plan making, and provide sustainable patterns of development, the council recognises that some development in the Green Belt may be required to achieve this and Green Belt evidence to identify how areas perform against the five tests has been undertaken. The proposed definition of grey belt provides some clarity on those areas of Green Belt where development can be directed, and the council supports the inclusion of PDL within the definition as this will ensure the most efficient use of land. However, further guidance is required on how 'limited contribution' is to be assessed and determined as this will be a subjective judgement that will require careful assessment.

TMBC has concerns over difficulties in the delivery of some brownfield land, especially those sites which are heavily contaminated, and seeks clarification on how government can help unlock such sites. In addition, remediation and stability are important factors that need to be taken into consideration when considering allocating previous landfill as grey belt, if it makes a limited contribution to the five Green Belt purposes.

The introduction of grey belt will mean that any existing Green Belt evidence will need to be revisited to ensure compliance with this definition. This will have additional time and cost implications on those local authorities with Green Belt, and the timely provision of further guidance on 'limited contribution' will be essential to ensure that any delays to plan making are kept to a minimum. The introduction of Grey Belt almost certainly will result in the loss of Green Belt land. This is unacceptable given the nature of the existing designation.

Notwithstanding the above, given the Council's development requirements, work has progressed to consider opportunities for Green Belt release at a huge cost including staff time. This work will now need to be reviewed and revised. Further work will also need to be undertaken to meet a revised NPPF if this comes forward as proposed. A Green Belt evidence base is a costly piece of work, especially given the amount of Green Belt within this authority's administrative area. Reviewing and revising work progressed to date alongside applying a new national approach and ensuring that work meets national policy should be financially supported by the Government where local authorities should be compensated for these additional costs and for costs already incurred. In addition, TMBC are keen to progress a local plan and the uncertainty around the grey belt definition and any associated guidance will hold up the plan-making process and will also have a knock on effect to other work and local plan testing that is required.

Question 24

Are any additional measures needed to ensure that high performing Green Belt land is not degraded to meet grey belt criteria?

The currently proposed definition of grey belt includes reference to 'limited contribution' and 'substantial built development'. These both rely on subjective judgements which may result in differing approaches to grey belt between local authorities. Guidance on this would therefore be welcomed to ensure a consistent approach across the Country.

Question 25

Do you agree that additional guidance to assist in identifying land which makes a limited contribution of Green Belt purposes would be helpful? If so, is this best contained in the NPPF itself or in planning practice guidance?

TMBC would welcome additional guidance on limited contribution. The tests should be included in the NPPF itself, but additional guidance could be accommodated within planning practice guidance. The timely provision of this guidance is key to allowing local authorities to progress with the assessment and identification of grey belt, and the council would wish to see this in place as soon as possible given the impact of this upon plan-making.

Question 26

Do you have any views on whether our proposed guidance sets out appropriate considerations for determining whether land makes a limited contribution to Green Belt purposes?

The guidance should set out appropriate considerations for determining whether land makes a limited contribution as well as clarifying the process of assessment that is needed to ensure a standardised method for undertaking assessment and minimise the subjectivity to ensure a robust evidence base for decision making and one that is applied in a consistent manner between local authorities.

Question 27

Do you have any views on the role that Local Nature Recovery Strategies could play in identifying areas of Green Belt which can be enhanced?

Local Nature Recovery Strategies will identify potential measures for creating or improving habitats and will identify suitable locations for delivery. This may include some areas of Green Belt but may also include areas assessed as grey belt. Both Green Belt and grey belt locations could potentially help to deliver elements of the LNRS, so long as there is a funding mechanism to do so. The delivery of new, or improvements to existing green spaces accessible to the public on grey belt in line with paragraph 155 (c) could compliment the LNRS. However not all habitats are compatible with public access, and there may be potential for conflict.

Until the Local Nature Recovery Strategies (LNRS) have been prepared, it is uncertain how much land this will impact on. Excluding land from development that is identified by the LNRS that could be of particular importance for biodiversity will be helpful in relation to the delivery of the golden rules.

Question 28

Do you agree that our proposals support the release of land in the right places, with previously developed and grey belt land identified first, while allowing local planning authorities to prioritise the most sustainable development locations?

Should Green Belt release be taken forward as proposed, then yes this is the correct approach. It should remain for Council's to prioritise the most sustainable development locations in their areas and this will be a matter of understanding which sites deliver the most sustainable development. In some cases, grey belt may not be the most sustainable location for development, therefore this sequential approach is welcomed as it provides flexibility where this may be required.

Question 29

Do you agree with our proposal to make clear that the release of land should not fundamentally undermine the function of the Green Belt across the area of the plan as a whole?

Yes, we consider that this is important, any release of land should not fundamentally undermine the function of the Green Belt.

Question 30

Do you agree with our approach to allowing development on Green Belt land through decision making? If not, what changes would you recommend?

No, we consider that the provisions of the NPPF at paragraphs 149-151 remain as current with regard to 'very special circumstances'. The council would prefer that any potential grey belt sites are brought forward via our Local Plan process. There is a high potential for inconsistencies in interpretation with the proposed approach given the current definition of grey belt land and the lack of guidance around "limited contribution" which are only likely to be resolved through the appeal process.

Question 31

Do you have any comments on our proposals to allow the release of grey belt land to meet commercial and other development needs through plan-making and decision-making, including the triggers for release?

TMBC support the proposal to allow the release of grey belt land to meet commercial and other development needs, where those needs cannot be met on land outside the Green Belt in principle. However, a sustainable location may be different for a housing/housing led scheme than it is for commercial and other development needs. Proximity to the strategic highway network may be a key consideration for some commercial schemes e.g. B2/B8 rather than access to a train station for example.

Question 32

Do you have views on whether the approach to the release of Green Belt through plan and decision-making should apply to traveller sites, including the sequential test for land release and the definition of PDL?

TMBC do not support the application of the sequential test for land release in relation to traveller sites. The introduction of traveller sites will result in the loss of Green Belt land. This is unacceptable given the nature of the existing designation.

Question 33

Do you have views on how the assessment of need for traveller sites should be approached, in order to determine whether a local planning authority should undertake a Green Belt review?

The starting point should be the Gypsy and Traveller Accommodation Assessment to fully understand and set out need during the plan period, in accordance with the PPTS. Further clarification of need and opportunities to understand if Green Belt release is necessary could be

gained thorough Land Availability site assessments and discussions around landowner willingness to expand.

Question 34

Do you agree with our proposed approach to the affordable housing tenure mix?

Yes, this tenure mix should be determined by each local authority based on local housing need evidence.

Question 35

Should the 50 per cent target apply to all Green Belt areas (including previously developed land in the Green Belt), or should the Government or local planning authorities be able to set lower targets in low land value areas?

The target of 50% affordable housing on land released from the Green Belt for residential development is laudable, however TMBC have concerns about whether this target will impact on the viability of some PDL and grey belt sites, especially where there may be costs for remediation and stabilisation works to allow the sites to be deliverable. If such schemes are not viable and cannot meet the proposed Golden rules, this may increase pressure to develop on higher performing areas of Green Belt in sustainable locations to meet identified need.

Local authorities already set local affordable housing targets through their development plan, based on locally specific evidence. These targets take into account local need as well as land values and viability and may provide a more realistically deliverable affordable housing percentage.

Question 36

Do you agree with the proposed approach to securing benefits for nature and public access to green space where Green Belt release occurs?

TMBC supports the desire to secure benefits for nature and people and suggest that this should be considered for all development sites not just those where Green Belt release is proposed.

The Golden rules do not specially mention securing benefits for nature, only public access to green space. Although it is possible to deliver multifunctional spaces to accommodate nature and people, this is not always the case, and some habitats are sensitive to human pressures. Depending on the local habitats present, and the outcome of this consultation in relation to Local Nature Recovery Strategies, it may not always be possible to deliver for both nature and people on a single piece of land. Therefore, there is potential that a larger portion of a development site may need to be devoted to green space, and this may reduce potential development yields.

A definition of 'good quality green space' would be helpful.

Question 37

Do you agree that Government should set indicative benchmark land values for land released from or developed in the Green Belt, to inform local planning authority policy development?

TMBC agree, however the starting point should be independent evaluation from a RICS independent valuer appointed by the Government. There is potentially a data limitation issue in that benchmarks may not reflect local land values. Furthermore, if land values are below the minimum return at which a reasonable landowner would be willing to sell their land, there creates a risk that land might not be bought forward.

Question 38

How and at what level should Government set benchmark land values?

In setting benchmark land values, the priority should be to look at agricultural land values at a local level to underpin any ranges set within the NPPF and/or Planning Practice Guidance.

Question 39

To support the delivery of the golden rules, the Government is exploring a reduction in the scope of viability negotiation by setting out that such negotiation should not occur when land will transact above the benchmark land value. Do you have any views on this approach?

TMBC agree, but this should be based on credible market evidence and RICS Red Book valuation.

Question 40

It is proposed that where development is policy compliant, additional contributions for affordable housing should not be sought. Do you have any views on this approach?

There is not a one size fits all approach, as site constraints may vary. We do not agree that there should be a blanket approach here. Local authorities already set local affordable housing targets through their development plan, based on locally specific evidence and where opportunities to increase affordable housing exist a LPA should have the ability to ensure additional affordable housing is delivered.

Question 41

Do you agree that where viability negotiations do occur, and contributions below the level set in policy are agreed, development should be subject to late-stage viability reviews, to assess whether further contributions are required? What support would local planning authorities require to use these effectively?

We agree in principle as we would wish to see affordable housing to the maximum level that can be delivered in viability terms delivered by developers. To use these effectively it would be helpful to have guidance on this in relation to when these would apply and also to provide consistency of approach. There may be further resourcing issues associated with this also in relation to the cost of independent assessment as well as a skills gap in how to understand the assessments or a requirement to pay consultants in order to apply the findings. .

Question 42

Do you have a view on how golden rules might apply to non-residential development, including commercial development, travellers sites and types of development already considered 'not inappropriate' in the Green Belt?

It is expected that applications for non-residential development may need to be considered on an individual basis particularly around infrastructure and green spaces. For example, with traveller sites, there may be more specific needs around on-site facilities/infrastructure.

Question 43

Do you have a view on whether the golden rules should apply only to ‘new’ Green Belt release, which occurs following these changes to the NPPF? Are there other transitional arrangements we should consider, including, for example, draft plans at the regulation 19 stage?

We consider that all planning applications for development on Green Belt sites that are submitted following the adoption of the updated NPPF should be subject to the Golden Rules. TMBC is at the Regulation 18 stage in plan preparation and will not therefore be affected by the NPPF change. However, it is noted that changes in the NPPF which may apply to Regulation 19 plans or adopted plans may require transitional arrangements to account for any changes in the number or types of homes or types of development being now required.

Question 44

Do you have any comments on the proposed wording for the NPPF (Annex 4)?

TMBC note that an exact figure for benchmark land value is not provided in Annex 4. As above, in setting benchmark land values, the priority should be to look at agricultural land values at a local level to underpin any ranges set within the NPPF and/or Planning Practice Guidance.

Question 45

Do you have any comments on the proposed approach set out in paragraphs 31 and 32?

More detail would be required on exactly how land could be bought forward and the support that would be put in place for local planning authorities to achieve this.

Question 46

Do you have any other suggestions relating to the proposals in this chapter?

No.

Chapter 6 – Delivering affordable, well-designed homes and places

Question 47

Do you agree with setting the expectation that local planning authorities should consider the particular needs of those who require Social Rent when undertaking needs assessments and setting policies on affordable housing requirements?

Yes, it is agreed because the delivery of affordable homes should be based on local need rather than nationally set figures.

Question 48

Do you agree with removing the requirement to deliver 10% of housing on major sites as affordable home ownership?

Yes.

Question 49

Do you agree with removing the minimum 25% First Homes requirement?

Yes because this requirement of 25% displaces the delivery of traditional forms of affordable homes. By removing the 25% first homes requirement, there will be greater flexibility to be able to meet local needs.

Question 50

Do you have any other comments on retaining the option to deliver First Homes, including through exception sites?

Greater flexibility would be welcomed by Tonbridge and Malling Borough Council to set affordable housing tenure requirements locally for all development sites including exception sites, to better reflect local housing needs. The exception site policy in our current development plan (Core Strategy policy CP19) is already clear that exception sites are intended for development which meets specific local need for affordable housing, based upon up-to-date local evidence.

It is sensible to keep first homes as a form of discounted market sale housing. The definitions of first homes and discount market sale must be clear, including specifying how this differs from market housing. It would be helpful to allow local authorities to set the level of discount locally based upon market affordability and Local Plan viability evidence.

Question 51

Do you agree with introducing a policy to promote developments that have a mix of tenures and types?

We would support the introduction of a policy which promotes mixed tenure schemes and the positive benefits this can bring, especially for major applications. Mixed tenures would contribute to sustainable communities and would assist in breaking up concentrations of housing types, addressing social issues that can stem from this.

Question 52

What would be the most appropriate way to promote high percentage Social Rent/affordable housing developments?

Whilst we acknowledge that social rented dwellings are amongst the most affordable, on their own as single tenure developments they are rarely viable without a form of subsidy or grant. Land and property values vary from site to site and between local authority areas across the country, this has implications for site viability. The ambition/preference for the delivery of social rented dwellings can be expressed in the NPPF, but it should not specify a percentage or threshold which is better informed by housing evidence that is prepared as part of the Plan making process.

Higher percentages of social rented dwellings could also be achieved through the provision of additional grant funding from central government, which could be used alongside the use and pooling of related s106 contributions.

Question 53

What safeguards would be required to ensure that there are not unintended consequences? For example, is there a maximum site size where development of this nature is appropriate?

Large single tenure developments rarely lead to the delivery of mixed and balanced communities. Sites providing a high percentage of affordable homes, with a mix of affordable housing tenures within this (social rent, affordable rent, various affordable home ownership options) can deliver mixed communities, good design, mix of unit types and sizes (flats and houses), percentage of various tenures and effective tenancy management would be key factors in delivering a sustainable community, rather than a maximum size.

Identifying a maximum site size is very subjective as the density and character of residential developments vary between urban and rural settlements.

Question 54

What measures should we consider to better support and increase rural affordable housing?

Affordable housing needs are often high in rural areas where house prices are also high, and availability of housing stock is more limited. Measures required to support the delivery of rural exceptions sites, include making funding available to assist with the viability of often small single tenure infill sites. Land assembly can also be a barrier for registered providers in seeking to bring forward exception sites. Further revisions to reduce the cost of using compulsory purchase powers could also be helpful.

Question 55

Do you agree with the changes proposed to paragraph 63 of the existing NPPF?

Yes. Housing needs and provision for this group need to be considered in planning terms in a similar way to other needs for specialist accommodation provision.

Question 56

Do you agree with these changes?

Yes.

Question 57

Do you have views on whether the definition of 'affordable housing for rent' in the Framework glossary should be amended? If so, what changes would you recommend?

Yes, as suggested broadening the definition to also reference community land trusts and alms houses, could assist in widening opportunities to increase the supply of new affordable rented dwellings from these providers. Charitable trusts should be included too such as The Royal British Legion who have a significant presence in the north of our borough, and who are active in delivering supported and assisted living accommodation for veterans. However, it will be important that any broadening of the definition does not open up the ability for non-registered

providers who may not be as genuine in their aims to delivery of affordable housing as alms houses or charitable trusts.

Consideration needs to be given to regulation and monitoring of delivery if providers are not subject to the regulations through being a registered provider; for example, in relation to the approach to rent setting and affordability of provision, along with consumer standards, health and safety, repairs and maintenance.

Question 58

Do you have views on why insufficient small sites are being allocated, and on ways in which the small site policy in the NPPF should be strengthened?

We agree that providing suitable sites for small and medium sized builders is essential to meet housing delivery ambitions and support economic growth. The character of local authority areas varies across the country, as such the availability of small sites will vary by area. Meeting the 10% local plan small sites requirement is not considered to be a challenge for Tonbridge and Malling Borough Council.

We consider that there should be clarity regarding the scale of small, medium and by implication strategic sites. Historically we have classified strategic housing development sites as comprising of 500 dwellings or more, but this is not defined in national planning policy.

Compliance with small and medium sites requirements set out in the NPPF should be checked through the Local Plan examination process.

Question 59

Do you agree with the proposals to retain references to well-designed buildings and places, but remove references to 'beauty' and 'beautiful' and to amend paragraph 138 of the existing Framework?

Yes.

Question 60

Do you agree with proposed changes to policy for upwards extensions?

Yes.

Question 61

Do you have any other suggestions relating to the proposals in this chapter?

No.

Chapter 7 – Building infrastructure to grow the economy

Question 62

Do you agree with the changes proposed to paragraphs 86 b) and 87 of the existing NPPF?

Yes, as long as employment policies in Local Plans and related site allocations continue to respond to locally prepared economy and employment evidence. We agree that where there is demand for the growth industries identified (laboratories, gigafactories, data centres, digital

infrastructure, freight and logistics), that these needs are evidenced and balanced against other planning considerations through the preparation of Local Plans.

Question 63

Are there other sectors you think need particular support via these changes? What are they and why?

No.

Question 64

Would you support the prescription of data centres, gigafactories, and/or laboratories as types of business and commercial development which could be capable (on request) of being directed into the NSIP consenting regime?

No, as we don't consider that these uses are Nationally Significant Infrastructure Projects (NSIPs) as currently defined by part 3 of the Planning Act 2008. These uses are different to those already included, which covers the fields of energy, transport, water, wastewater and waste. We acknowledge that part 3 paragraph 14 (3) states that the Secretary of State may by order add to or amend the list of NSIP project types, but only within the specified fields. Data centres, gigafactories, and laboratories are not utilities or transport infrastructure, for which there can be **an overriding public interest in terms of project delivery.**

Question 65

If the direction power is extended to these developments, should it be limited by scale, and what would be an appropriate scale if so?

Yes. Setting an appropriate threshold by scale either in terms of site area, commercial floorspace or both, should be substantial so that only the largest and potentially most controversial projects are dealt with by the NSIP regime. We suggest a site area exceeding 40ha or floorspace exceeding 200,000 sq./ft.

Question 66

Do you have any other suggestions relating to the proposals in this chapter?

No

Chapter 8 – Delivering community needs

Question 67

Do you agree with the changes proposed to paragraph 100 of the existing NPPF?

Yes.

Question 68

Do you agree with the changes proposed to paragraph 99 of the existing NPPF?

Yes, it is helpful that this now references early years, school and post-16 education. A lack of places for any of this provision could hinder the development of children and young adults within existing and growing communities.

Question 69

Do you agree with the changes proposed to paragraphs 114 and 115 of the existing NPPF?

Yes. We consider that it is no longer possible to apply a 'predict and provide' approach, as in many cases existing road junctions are expected to operate beyond their capacities in the future and mitigation in the form of road and junction improvements is also not always possible due to constraints. This may include land ownership and/or the existing built/natural environment.

As such a 'vision-led' approach is required with sustainable and active travel interventions that provide people with genuine mode choice.

Question 70

How could national planning policy better support local authorities in (a) promoting healthy communities and (b) tackling childhood obesity?

Following the establishment of Active Travel England and publication of updated guidance by the DfT (Local Transport Note 1/20 and Local Walking and Cycling Infrastructure Plans), there has been little progress on the ground in delivering comprehensive new infrastructure to support walking, wheeling and cycling.

The preparation of and LCWIP is the first step towards achieving a step change in local infrastructure provision. These need to be sufficiently ambitious in their vision and scope but also need to be a requirement in the NPPF which currently isn't the case (see paragraph 110d). LCWIPs are not currently statutory plans and across Kent their preparation and quality are variable, in most cases, aligned to the preparation of Local Plans, few have yet to be adopted.

Separate to this the government should make capital funding available to assist local authorities in delivering the infrastructure identified in their LCWIPs. It is not possible to secure all the required funding via development contributions, this is often piece meal and therefore implementation at best follows new house building and commercial construction.

Controls on fast food takeaways in terms of their proximity to schools, needs to be evidenced in terms of the link to childhood obesity. There are other relevant factors too such as the availability of safe and well-equipped sport, play and recreation facilities within all communities, as well as accessible and affordable indoor sports facilities. Where evidence supports tighter planning controls on fast food takeaways, these could be set nationally so that there is consistency across the country for future development management decisions.

Question 71

Do you have any other suggestions relating to the proposals in this chapter?

No.

Chapter 9 – Supporting green energy and the environment

Question 72

Do you agree that large onshore wind projects should be reintegrated into the NSIP regime?

Yes. TMBC agrees that large onshore wind projects should be reintegrated into the NSIP regime because the scale and complexity of such projects are of national significance and then can wholly benefit from the NSIP regime which was designed to facilitate such projects of national interest. This would allow smaller projects that have a more localised impact which fall beneath the proposed new thresholds to be processed through the local planning system. Overall, this is likely to create a better proportionately balanced system for the determination of applications and speed up delivery of onshore wind projects.

The Government's Net Zero Strategy outlines the role of onshore wind in achieving net zero greenhouse gas emissions targets by 2050 and to achieve these, an effective planning system is needed to support large scale nationally significant infrastructure. It is vital that developers use the most efficient planning route to process their energy projects appropriate to their size and complexity, so the UK can meet its net zero target and provide a cleaner, greener future.

By reintegrating large onshore wind projects back into the NSIP regime (proposed to be 100MW) this will reaffirm their status as 'critical national priority'. National Policy Statement EN-1 specifically recognises that there is a Critical National Priority (CNP) for the provision of significant low carbon infrastructure and such applications with CNP status are required to be progressed as quickly as possible.

This reintegration of onshore wind into the NSIP regime also appears to align with the new Government's aspiration for its Great British Energy company that is envisaged to deliver 20-30GW of wind power.

Question 73

Do you agree with the proposed changes to the NPPF to give greater support to renewable and low carbon energy?

Yes. Concerning plan making, the NPPF already requires Plans to provide a positive strategy [para 161] to increase the use and supply of renewable and low carbon energy and heat to maximise the potential for suitable development. This sets a good foundation for renewable and low carbon energy and heat which is noted to be unchanged. As proposed, para 161b] now requires plans to 'identify' instead of 'consider identifying' suitable areas for renewable and low carbon energy sources, and supporting infrastructure, where this would help secure their development. The strengthening of this policy is welcomed overall. It is considered that the locations will be largely dictated by market needs and energy company environmental preferences with many LPA areas being unsuitable. It will also be challenging to meet this requirement for constrained urban LPAs as well as LPAs that have significant landscape constraints such as that within Tonbridge and Malling Borough which has significant constraints including 27% National Landscape, 11% ancient woodland and 70% greenbelt coverage. On this basis, the latter part of 161B] continues to be useful alongside 161a] in relation to ensuring that adverse impacts are addressed appropriately (including cumulative landscape and visual impacts).

For decision making, it is noted that the proposed NPPF does make meaningful changes in terms of the planning balance. In this regard, para 164 now requires significant weight to be given to the proposal's contribution to renewable energy generation and a net zero future. TMBC consider this to be a positive step forward, whereby the current NPPF does not provide such a weighting, leaving decision makers to determine the weight to be given to renewable energy generation (against other planning material considerations). In addition, TMBC supports the removal of 'significant' from para 164b) recognising that all projects provide a worthy contribution to reducing greenhouse gas emissions.

Overall, TMBC considers the proposed changes will strengthen the policy framework and provide greater encouragement for these energy sources which is supported. Maximising the use of renewable and low carbon energy and heat on development sites, both commercial and residential, will help to reduce carbon emissions and improve energy security. The domestic and commercial sectors produce 28% of Tonbridge and Malling borough's carbon emissions and these are dominated by heating in buildings and energy use.

Furthermore, TMBC also recommends that the practice guidance is updated and amended to reflect the proposed NPPF changes on this matter which should provide the important clarity and assurance to Local Planning Authorities when considering renewable and low carbon energy in future development plans and decisions.

Question 74

Some habitats, such as those containing peat soils, might be considered unsuitable for renewable energy development due to their role in carbon sequestration. Should there be additional protections for such habitats and/or compensatory mechanisms put in place?

Yes. TMBC agrees that at the national level, the role of natural carbon sequestration is important in the fight against climate change and where such ecologically rich habitats do not currently benefit from local/national or international policy protection, TMBC considers these areas should be afforded additional protections and that this should be made clear.

In the case of peat habitat, TMBC does not support compensatory mechanisms. Peat habitat stores significant amounts of carbon and there is not a viable compensatory mechanism for the destruction of this habitat whereby the precautionary principle should therefore be applied to these areas when considering development proposals affecting them.

The borough of Tonbridge and Malling does not have any such peat soils. Tonbridge and Malling does however have areas of ancient woodland and an existing tree canopy coverage that is higher than the national average, which acts as a natural carbon sink for sequestration, as well as being biologically rich. When planning for growth, TMBC considers it important that our ancient woodland and existing canopy cover is protected, and is unaffected, where possible, by new development.

Question 75

Do you agree that the threshold at which onshore wind projects are deemed to be Nationally Significant and therefore consented under the NSIP regime should be changed from 50 megawatts (MW) to 100MW?

Given the technological advances in wind turbines, TMBC considers it appropriate that the thresholds for considering NSIP's are reviewed and where necessary updated to reflect the current industry and the likely power outputs from this technology. TMBC considers there to be a degree of pragmatism with this proposal.

However, TMBC considers that in raising the threshold, this will inevitably result in more and larger projects being determined at the local level which could present significant technical and resource challenges for Local Planning Authorities. It is considered that the impact of this should be considered and addressed appropriately including the provision of guidance and training to assist officers in determining applications as well as financial considerations to help with resources.

Question 76

Do you agree that the threshold at which solar projects are deemed to be Nationally Significant and therefore consented under the NSIP regime should be changed from 50MW to 150MW?

Given the technological advances in solar energy, TMBC considers it appropriate that the thresholds for considering NSIP's are reviewed and where necessary updated to reflect the current industry and the likely power outputs from this technology. TMBC considers there to be a degree of pragmatism with this proposal.

However, TMBC considers that in raising the threshold, this will inevitably result in more and larger projects being determined at the local level which could present significant technical and resources challenges for Local Planning Authorities. It is considered that the impact of this should be considered and addressed appropriately including the provision of guidance and training to assist officers in determining applications as well as financial considerations to help with resources.

Question 77

If you think that alternative thresholds should apply to onshore wind and/or solar, what would these be?

TMBC has no comment on this and considers the thresholds should be set according to the technical evidence and industry feedback.

Question 78

In what specific, deliverable ways could national planning policy do more to address climate change mitigation and adaptation?

TMBC considers that national planning policy could go further to address water scarcity and increases in drought conditions particularly in water stressed areas such as the southeast of England. The National Infrastructure Commission's report, 'Preparing for a drier future – England's water infrastructure needs' (2018), has already shown that investing in improving our resilience to drought is far more cost-efficient than the alternative cost incurred to society, and the environment, as a result of severe droughts. The Environment Act 2021 sets a target to reduce the use of public water supply in England, per head of population, by 20% by 2037-38

from the 2019-20 baseline. Therefore, it is considered that robustly encouraging mandatory water consumption targets/thresholds alongside water recycling/harvesting and smart metering through national policy would be a deliverable climate change mitigation/adaption mechanism.

TMBC considers that national planning policy could go further to address overheating. With a steadily warming climate and hot summers expected to become more common, it is widely accepted that overheating significantly affects communities, in particular vulnerable people as well as critical infrastructure. Observations show that extremes of temperature in the UK have been affected much more than average temperature, with the recent heatwaves of July 2022 and June and September 2023 considered to have all been made more likely by climate change, as outlined in the International Journal of Climatology, state of the UK Climate (2023).

TMBC considers that national planning policy could strengthen consideration and guidance of nature-based solutions for climate change adaptation in new developments. Green infrastructure, appropriate planting including street trees, and other nature-based solutions deliver a range of benefits such as tackling the urban heat island effect, regulating water flows, and supporting habitats and biodiversity. The NPPF could support the use of these approaches over mechanical, energy-hungry alternatives through guidance on design codes, energy and emissions measurement and monitoring, and ensure consistency with on-site potential for Biodiversity Net Gain in support of broader planning priorities on health and well-being, and well-designed buildings and places.

As set out by Q.81, TMBC would like to see greater emphasis and support to the application of the Circular Economy within development. TMBC also would like to see greater clarity and policy direction on developments meeting the energy hierarchy and LPA's individual desires to set their own energy standards. Given the recent 2023 Ministerial Statement and the forthcoming Future Homes Standards, it is considered that there is a degree of ambiguity on this matter for LPA's when addressing climate change mitigation in their Local Plans.

Question 79

What is your view of the current state of technological readiness and availability of tools for accurate carbon accounting in plan-making and planning decisions, and what are the challenges to increasing its use?

There is a good level of technological readiness and availability of tools for accurate carbon accounting in plan-making and planning decisions in terms of direct emissions from new developments. For example, data and modelling in terms of energy use and carbon emissions from a range of technologies that may be used in new developments under different planning policies is now relatively straightforward. These tools are well-known and readily available with good competition between providers. This data and modelling quantify operational emissions from buildings to inform and/or monitor Local Plan policies.

However, carbon accounting for operational emissions fails to recognise the complexities of climate change within broader social, economic and environmental systems. These complexities require consideration of:

- emissions from land use change, embodied emissions from decommissioning buildings and new construction, and indirect emissions from transport, as well as
- impacts of the changing climate on infrastructure, health and well-being, future risks and vulnerabilities of communities, built and natural environments.

These complex systems are influenced by the planning system and should be considered in the carbon accounting techniques, tools and methodologies used for plan-making.

TMBC considers there to be an adequate level of technological readiness and availability of tools to support a spatial approach to incorporating net zero and environmental protection within the planning system. Important spatial modelling and tools that incorporate climate changes and emissions to enable future-ready policy decisions are under development or in early stages of deployment by public sector bodies, including the Met Office, the National Infrastructure Commission and UK Power Networks, as well as within industry, academia and cross-sector partnerships. The NPPF could usefully provide a framework and a clear, robust methodology for the application of such tools and techniques that integrate emissions, climate impacts and future scenarios alongside other relevant considerations to the planning system.

The most significant challenge to increasing the use of tools and techniques for a spatial approach to plan-making that incorporates net zero and environmental protection is the availability of analytical skills and capabilities to understand how to use spatial models and tools, and leadership that can implement these changes in plan-making processes. The NPPF could perform an important function by providing a clear framework for the use of spatial tools, their level of priority, and appropriate methodologies that account for emissions, climate risks and impacts in plan-making. A clear framework, guidance and methodologies would enable LPAs to develop assessments and monitoring of the climate impacts of developments beyond operational building emissions, supporting the delivery of net zero through the planning system.

Question 80

Are any changes needed to policy for managing flood risk to improve its effectiveness?

Yes. TMBC considers there should be a stronger requirement in policy for the use of Sustainable Urban Drainage [SUDs] which should extend to developments beyond just major developments. There has been an increase in heavy rainfall across the UK in recent decades which is projected to continue and will increase the risk of flash flooding and the need for greater use of SUDs. Sustainable Urban Drainage Systems mimic natural drainage processes, allowing rainwater to be absorbed into the ground, reducing the risk of surface water flooding and enhancing water quality as well as green infrastructure and biodiversity. In addition to SUDs, TMBC also considers that greater emphasis should be given to the application of individual rain water capture and harvesting and grey water harvesting for non-potable uses which are easily installed within new developments but difficult to retrofit afterwards and can help reduce flooding and drought/water scarcity.

TMBC considers national policy should go further to support local flood risk management infrastructure projects that provide critical protection for communities now and in the future. An example of such a project is the Medway Estuary and Swale Flood and Coastal Erosion Risk Management Strategy (MEASS) which sets out the best economic, environmental and

technically appropriate approach to managing flood and coastal erosion risk over the next 100 years which expands across several local authority areas within the south east.

TMBC would also like to see greater clarity provided regarding the sequential test and applying all forms of flooding using different data sets. Following the updates to the August 2022 PPG, it is now required that the sequential test assesses all sources of flooding for low, medium and high-risk areas both now and in the future. However, there are concerns over the availability, compatibility and accuracy of data for other sources of flood risk. For some sources of flood risk the uncertainty in the data does not make it appropriate to apply the sequential test and make such demarcations and use derived mapping in the same way as the available flood zone information for river and sea flooding. Introducing mapping and data with a higher level of uncertainty will potentially compromise the basis for sequential testing as it introduces the prospect that sites that are incorrectly identified as having a high or medium risk of flooding are incorrectly excluded from the Plan (and vice versa). In the absence of clear guidance on how to apply the sequential test using significantly differing data sets and leaving it for individual LPA's judgement, this will result in vastly different methodologies and a lack of continuity across the UK planning sector.

Question 81

Do you have any other comments on actions that can be taken through planning to address climate change?

Yes. TMBC would like to see greater emphasis and support to the application of the Circular Economy within development. This will reduce embodied carbon and waste as well as encourage the reuse of materials and buildings whilst ensuring new buildings are built in a manner that better prepares them for future extensions/alterations and maintenance in response to our changing climate.

TMBC considers that the national policy should be stronger to support the use of nature-based solutions in the land use planning system. The DEFRA A Green Future: Our 25 Year Plan to Improve the Environment, sets a clear ambition to seek an environmental net gain principle for development and this can only be achieved through a transparent commitment in the NPPF as well as the role of nature within design. One such way could be to strengthen the reference to the use of natural flood management and green sustainable drainage systems. The wording in para 172d currently refers to 'where possible' provide multifunctional benefits which could be amended to be much stronger in delivery.

Question 82

Do you agree with removal of this text from the footnote?

Yes. TMBC does not consider that the additional text in footnote 64 provided a material benefit and does not object to its removal. Arguably, this is already covered by para 180b). In this instance, whilst TMBC agrees that safeguarding best and most versatile agricultural land is an important consideration it must also be recognised that not all land classified as best, and most versatile agricultural land is currently used for food production.

As a predominantly rural borough, Tonbridge and Malling has a proud tradition of nationally renowned agriculture and horticulture, and most recently, a thriving viticulture industry has been successfully established in the borough. The area has been identified as forming an important part of the 'Orchard Belt' of Kent also traditionally known as 'The Garden of England' and therefore contains extensive areas of the best and most versatile agricultural land (BMV) as defined in the national Agricultural Land Classification (ALC). When planning for growth, TMBC will therefore continue to seek to safeguard the best and most versatile agricultural land in line with national policy.

Question 83

Are there other ways in which we can ensure that development supports and does not compromise food production?

Yes. As a predominantly rural borough with a strong agricultural sector, TMBC understands the national importance of food production and will therefore continue to safeguard the best and most versatile agricultural land and support agricultural development in principle.

Greater focus and support should also be given to the importance of domestic food growing for example, the use of allotments and small holdings.

The council has some concerns about including glasshouses in the definition of PDL and how this could impact on food production in the borough (see response to Q 22).

Question 84

Do you agree that we should improve the current water infrastructure provisions in the Planning Act 2008, and do you have specific suggestions for how best to do this?

Yes. Located within a water stressed area as classified by the Environment Agency in their 2021 classification, TMBC considers water scarcity and supporting water resilience to be a critical issue for the future.

TMBC supports the proposal to amend the Planning Act 2008 to ensure water infrastructure projects of national importance are captured within the NSIP regime which should bring clarity and support faster delivery in the national interest.

It is considered that the Planning Act 2008 should be reviewed and updated to refer to the future water management technology such as water recycling as well as the needs of the country and accurately reflect the current industry technology. In this regard it is acknowledged that UK water company revised draft water resources management plans contain proposals for multiple new infrastructure schemes across the UK by 2050, potentially supplying 10 million litres of water per day (Ml/d) or more including: 4 new desalination schemes, 7 new reservoirs, 5 new water recycling schemes and multiple new internal and inter-company transfers to share resources, as set out in water resource management plans. As such the current water infrastructure provisions in the Planning Act 2008 should reflect these future proposals.

Question 85

Are there other areas of the water infrastructure provisions that could be improved? If so, can you explain what those are, including your proposed changes?

Yes. Located within a water stressed area as classified by the Environment Agency in their 2021 classification, TMBC considers water scarcity and ensuring sufficient water supplies are planned for its future communities to be of critical importance. To achieve this and provide greater clarity and reassurance to TMBC and all LPA's, it is considered that when modelling and planning for future growth there should be a stronger requirement for water companies to meaningfully and actively engage with Local Planning Authorities at an earlier stage and not following the adoption of Local Plans.

Lastly, TMBC has significant concerns regarding the harmful impacts of wastewater and sewage discharges into local rivers and watercourses from sewage plants and combined storm overflows have on the environment and properties. To address this, TMBC would therefore like to see much stronger regulatory processes to deter such discharges as well as mitigation/adaption measures required as part of new wastewater infrastructure provisions.

Question 86

Do you have any other suggestions relating to the proposals in this chapter?

TMBC has no further comments on this chapter.

Chapter 10 – Changes to local plan intervention criteria

Question 87

Do you agree that we should replace the existing intervention policy criteria with the revised criteria set out in this consultation?

No. The existing intervention criteria set out in the 2017 Housing White Paper are adequate. These being...

- the least progress in plan-making had been made;
- policies in plans had not been kept up to date;
- there was higher housing pressure;
- intervention would have the greatest impact in accelerating local plan production.
- The wider planning context in each area in terms of the extent to which authorities are working cooperatively to put strategic plans in place; and
- The wider planning context in each area in terms of the potential impact that not having a plan has on neighbourhood planning activity.

Notwithstanding the above, we consider that intervention in plan-making should not be applied and that LPAs should be trusted to progress plan-making taking into account local matters and constraints.

Question 88

Alternatively, would you support us withdrawing the criteria and relying on the existing legal tests to underpin future use of intervention powers?

No, the current intervention criteria are adequate.

Chapter 11 – Changes to planning application fees and cost recovery for local authorities related to Nationally Significant Infrastructure Projects

Question 89

Do you agree with the proposal to increase householder application fees to meet cost recovery?

Yes

Question 90

If no, do you support increasing the fee by a smaller amount (at a level less than full cost recovery) and if so, what should the fee increase be? For example, a 50% increase to the householder fee would increase the application fee from £258 to £387.

If Yes, please explain in the text box what you consider an appropriate fee increase would be.

Any fee increase for cost recovery would require to be evidenced before being set by the LPA. This would be done through an evidence base exercise of the actual costs of progressing an application. Currently we do not hold this information so we cannot provide a figure at this point.

Question 91

If we proceed to increase householder fees to meet cost recovery, we have estimated that to meet cost-recovery, the householder application fee should be increased to £528. Do you agree with this estimate?

In principle we agree but as stated above we do have the evidence of actual cost recovery for householder applications.

Question 92

Are there any applications for which the current fee is inadequate? Please explain your reasons and provide evidence on what you consider the correct fee should be.

At this point in time, we do not have sufficient evidence to provide a figure. An evidence base exercise will need to be undertaken. However, we can comment on the different types of application where the fee is inadequate.

Discharge of conditions, especially on major schemes, can often involve a lot of negotiation and officer chasing the consultees and agents for information. It is more productive to seek the information during the course of the discharge of condition application to ensure a timely delivery of the development. What would also be of benefit is if applicants were only allowed to submit one condition per application. This would also prevent a hold up or delay when certain

conditions stop an entire discharge. Having this limit would also be more reflective of the cost of an application.

Non-material amendments have shorter timeframes. The fee is currently low. It still has to go through the validation process and officers' assessment and decision notice being issued. Sometimes consultations with internal departments will also be required. Therefore, the fee charged should be more reflective of the work required to process and assess the application including liaison with other departments.

Permitted development and prior approval applications can also require a great deal of time to go through from registration to issuing of the decision notice. These can be really complex applications which require research and take more time than a standard householder application. This work should be reflected in the fee.

As stated, any fee charged will need to be evidenced and TMBC will need to go through this exercise before any fees could be set locally.

Question 93

Are there any application types for which fees are not currently charged but which should require a fee? Please explain your reasons and provide evidence on what you consider the correct fee should be.

As stated in question 92, at this point in time, we do not have sufficient evidence to provide a figure. An evidence base exercise will need to be undertaken. However, TMBC can comment on different types of application where we feel a fee should be applicable.

It is argued that consents for listed building and works to trees that are protected / located in a conservation area should not be charged because owners cannot opt out of these designations. However, the majority of people who own these properties will be owner occupiers or have chosen to purchase a property in such a designation. Therefore, they have taken on the responsibility of such a property, and it is not an unreasonable request, that for improvements or maintenance that the consents required are covered at least in part.

There could be an exception put in for listed buildings on the at-risk register, newly designated heritage assets or 5-day tree exceptions notices to reflect the urgency or the new status of the properties in new designations.

Question 94

Do you consider that each local planning authority should be able to set its own (non-profit making) planning application fee?

Please give your reasons in the text box below.

Local authority should have the ability to set their fees. This will allow fees to reflect more of the local conditions and allow the department the opportunity to become self-funding. TMBC would support Local Variation.

Question 95

What would be your preferred model for localisation of planning fees?

Local Planning Authorities should have the ability to set their own fees, without there being any default or guidance from Government.

Please give your reasons in the text box below.

Local variation would be the preferred choice. Full localisation could actually put further strain on under resourced departments. The introduction of local variation makes sense in order to ensure everything is adequately evidenced and the introduction thoroughly thought out to how it may impact the authority and its customers.

Question 96

Do you consider that planning fees should be increased, beyond cost recovery, for planning applications services, to fund wider planning services?

If yes, please explain what you consider an appropriate increase would be and whether this should apply to all applications or, for example, just applications for major development?

Yes. Any figure would need to be evidenced so a figure cannot be provided at this point. However, it should span the range of applications. The burden shouldn't fully fall just on major applications. Planning applications of all types are on the most part fuelled by private interest and the burden should fall more heavily and at least in part on those who benefit from the services.

The risk of deterring development is likely to be low because developers and individuals want a good service. This is already evidenced by the use of PPAs. People are willing to pay more.

Question 97

What wider planning services, if any, other than planning applications (development management) services, do you consider could be paid for by planning fees?

Plan-making, enforcement, heritage and conservation, design services, ecology should all count. The DM service only can run with the help from these services. Having an up-to-date local plan, is so important to good decision making. Funding local plans will only enhance the service that can be provided.

Not including the wider service and those who input into the decision-making process would not accurately reflect what the DM service does as a whole. Not accounting for these wider services could slow services and more importantly slow service improvements.

Wider services like IT support to help maintain the planning software to ensure it is fit for purpose could also be included. Change/ transformation managers who look at processes to ensure efficiency could also be included. If the aim is to get planning applications out faster this kind of support and continual improvements is crucial to the delivery of an efficient service.

Question 98

Do you consider that cost recovery for relevant services provided by local authorities in relation to applications for development consent orders under the Planning Act 2008, payable by applicants, should be introduced?

Yes. Engaging in the DCO process is a substantial draw upon officer time. As our experience of engaging with the Lower Thames Crossing DCO demonstrated, requiring engagement and support from officers across services within the council. It is essential that cost recovery is introduced and negotiated via planning performance agreement or other suitable mechanism, at an early stage i.e. prior to the submission of the DCO. TMBC is a host authority for the Lower Thames Crossing project, we were engaged in project consultations and related meetings with National Highways and other parties from the early stages, however a PPA was not offered to the council, and this had to be proactively negotiated which was incredibly time consuming. The time required to participate in DCO applications competes against providing resources for other important services such as delivering a local plan. Should cost recovery be possible, then staff resource to support DCO applications could be enhanced.

Question 99

If yes, please explain any particular issues that the Government may want to consider, in particular which local planning authorities should be able to recover costs and the relevant services which they should be able to recover costs for, and whether host authorities should be able to waive fees where planning performance agreements are made.

As we found following our engagement with the Lower Thames DCO process, we were able to recharge for time and costs relating to our engagement and preparation for meetings which did not form part of the statutory DCO proceedings, i.e. the examination hearings. It was expected that we resource all officer time and if required any additional technical and legal advice/representation in relation to preparation for and attendance at hearing sessions. Undertaking this work is not insignificant due to the volume and complexity of DCO documentation that must be reviewed, liaison meetings involved, and time required to draft the local impact report and other submissions. Local authority planning departments do not have surplus officer capacity that can be drawn upon to resource this important work, as such full cost recovery must be possible through the negotiation of a PPA.

Furthermore, third parties such as councils have little if no influence over the timing of DCO proceedings, which are set by the applicants and appointed planning inspectors. This can place further challenge upon council planning terms, especially if Local Plan and other work programmes are at critical stages. Due to the resourcing challenges faced by several local authorities in relating to the Lower Thames DCO, including TMBC, the appointed Inspectors held a preliminary meeting to explore and resolve these, following written representations made by host authorities. Lessons must be learnt from this experience, and we encourage the government to liaise with the Planning Inspectorate to gain related published correspondence on this.

Question 100

What limitations, if any, should be set in regulations or through guidance in relation to local authorities' ability to recover costs?

Understandably cost recovery needs to be reasonable and proportionate, as the cost of preparing and progressing DCO applications are substantial. All reasonable costs should be recoverable up to a ceiling set within PPAs, including preparation of submissions for and attendance at examination hearings. This should be set out in regulations not guidance.

Question 101

Please provide any further information on the impacts of full or partial cost recovery are likely to be for local planning authorities and applicants. We would particularly welcome evidence of the costs associated with work undertaken by local authorities in relation to applications for development consent.

Reflecting upon our experience of engaging with the Lower Thames Crossing DCO, we were not able to recover all our associated costs. Once negotiated, the PPA had a sufficiently generous cost limit of £55k for our purposes, however the council was only able to recharge approximately £11,500.00 against this. Given also the late-stage negotiation of the PPA and subsequent recharge following the closure of the examination, the council was not able to put in place any additional professional resource to support the council's engagement with the DCO process, as there was insufficient time to achieve this.

Question 102

Do you have any other suggestions relating to the proposals in this chapter?

No.

Chapter 12 – The future of planning policy and plan making

Question 103

Do you agree with the proposed transitional arrangements? Are there any alternatives you think we should consider?

No. Tonbridge and Malling has been making positive progress in preparing its new Local Plan and was due to publish a Regulation 18b consultation during August 2024, in line with the council's current Local Development Scheme.

The implications of the proposed NPPF changes are that the council will need to re-consider significant elements of its evidence base and procure new evidence in order to prepare a Local Plan that is NPPF compliant, in particular the revised standard method for calculating housing need alongside changes to Green Belt national policy. These changes will have significant knock on effects to other evidence base requirements including testing different local plan spatial scenarios and revising work that has been undertaken to date to account for national policy changes alongside considering a different local plan time period. The Council will also need to revise its Local Development Scheme which will provide a later date for submission and adoption than that identified currently. This all comes at a huge cost to the Council and LPAs should be financially compensated to address the Government's policy changes.

The revisions to the NPPF as proposed will have significant resource and cost implications for the council, including the amount of time and costs already spent on plan preparation that will now need to be re-worked.

The Council welcomes the additional time that is provided in which the council can prepare and submit a plan, that being by December 2026. To account for the time and money already spent, we suggest that councils that have already undertaken a Regulation 18 consultation, should be allowed to proceed in preparing a Local Plan in accordance with the 2023 NPPF, as this would allow the adoption of an up-to-date plan at the earliest possible opportunity. In addition, the

Government should also consider providing funding to compensate for the additional resource and costs that preparing a plan under the revised NPPF will amount to.

Question 104

Do you agree with the proposed transitional arrangements?

No, the proposed transitional arrangements whilst providing an additional 18 months for plan preparation, will in practice result in additional cost and delay for Tonbridge and Malling Borough Council, in progressing an up-to-date Local Plan. Until an up to date Local Plan is in place, the council remains at risk of further speculative development.

Question 105

Do you have any other suggestions relating to the proposals in this chapter?

The council supports further progress in relation to digital planning, including common data and digital platform standards. The council has embraced digital planning, being one of the first to use a digital platform to prepare our urban capacity study. We have experience of using different digital/tech suppliers for different plan making purposes and have encountered frustrating situations where digital products don't integrate well. Common data and platform standards could help overcome this, as different councils are separately procuring and using many different digital consultation, data management and other software products.

Chapter 13 – Public Sector Equality Duty

Question 106

Do you have any views on the impacts of the above proposals for you, or the group or business you represent and on anyone with a relevant protected characteristic? If so, please explain who, which groups, including those with protected characteristics, or which businesses may be impacted and how. Is there anything that could be done to mitigate any impact identified?

The council does not foresee any new or additional impacts upon anyone with a relevant protected characteristic as a consequence of the proposed changes to the NPPF.