



Department for  
Communities and  
Local Government

**Summary of responses to the technical consultation on  
implementation of planning changes, consultation on  
upward extensions and Rural Planning Review Call for  
Evidence**



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Department for Communities and Local Government  
Fry Building  
2 Marsham Street  
London  
SW1P 4DF  
Telephone: 030 3444 0000

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# Introduction

We published the technical consultation on implementation of planning changes on 17 February 2016. The consultation was open for 8 weeks and closed on 15 April 2016.

The consultation covered detailed proposals to support the implementation of the Housing and Planning Act 2016 and included:

- Changes to planning application fees;
- Enabling planning bodies to grant permission in principle – response to be published separately.
- Introducing a statutory register of brownfield land suitable for housing development – response to be published separately.
- Creating a small sites register to support custom build homes;
- Speeding up and simplifying neighbourhood planning and giving more powers to neighbourhood forums – response published separately.
- Introducing criteria to inform decisions on intervention to deliver our commitment to get local plans in place;
- Extending the existing designation approach to include applications for non major development – response published separately.
- Testing competition in the processing of planning applications;
- Information about financial benefits;
- Introducing a Section 106 dispute resolution service;
- Facilitating delivery of new state-funded school places, including free schools, through expanded permitted development rights; and,
- Improving the performance of all statutory consultees.

We published the consultation on upward extensions in London on 18 February 2016, seeking views on proposals to support housing supply by allowing additional storeys to be built on existing buildings. The consultation was open for 8 weeks and also closed on 15 April 2016. This annex also covers the response to that consultation.

We also published, on 11 February, a Call for Evidence for the Rural Planning Review. This sought views on planning and regulatory constraints facing rural businesses and on the measures that could be taken to address them. The Call for Evidence ran for 10 weeks, closing on 21 April. This annex also covers the summary of responses to the Call for Evidence and a consultation on new permitted development rights.

# The technical consultation on implementation of planning changes

Respondents were invited to reply online using an internet survey package or to email or post written comments to the Department for Communities and Local Government. We received 818 responses to the technical consultation. Respondents addressed some or all of the questions set out in the consultation paper, offered comments on the draft changes, and in some cases made specific suggestions for revised wording. This document sets out a summary of the responses made to each part of that consultation and the Government’s response.

## Consultation responses

818 responses were received to the consultation. A breakdown of the types of respondent is shown below:

<b>Response by type of respondent</b>	<b>% breakdown</b>
Local planning authorities	<b>43%</b>
House builders/developers/housing associations (development sector)	<b>5%</b>
Businesses	<b>3%</b>
Public Sector Organisations	<b>5%</b>
Professional institutions/associations	<b>8%</b>
Industry representatives/bodies and trade organisations	<b>4%</b>
Individual/voluntary/charity/community/research organisations	<b>32%</b>
<b>Total</b>	<b>100%</b>

Throughout the document, qualitative terms are used to describe the responses; these terms should be interpreted as follows:

Overwhelming support	90%+	About half	45-54%
Strong support	75%+	Less than half	35-44%
Considerable support	60%+	Around a third	25-34%
More than half	55%+	Less than a third	24% and below

## **Consultation questions**

The summary of responses is structured around the questions asked in the consultation document. We were grateful for all the responses received, including the alternative or additional text which some respondents offered. These have been given full consideration. It should be noted that in evaluating the responses to this consultation, the Government has carefully considered the arguments put forward in support of, or against, any particular proposal, rather than reaching a view based on the absolute number of respondents for or against a particular measure.

The rest of this report sets out an overview of the responses to individual questions, and provides more detail on the Government's proposals for implementing the package of reforms.

## **Public Sector Equality Duty**

We sought views on whether proposals impact on protected groups to ensure that we take into account all relevant evidence in our consideration.

A number of responses were made on whether proposals impacted on protected groups. These responses have been carefully considered as part of our analysis and policy decisions.

## **Permission in principle and brownfield registers**

These consultations covered the detailed operation of permission in principle (Chapter 2) and brownfield registers (Chapter 3).

A summary of responses and the Government response will be published when the regulations on these measures are laid in spring 2017.

## **Neighbourhood planning**

The consultation covered detailed proposals to speed up and simplify neighbourhood planning and giving more powers to neighbourhood forums.

The Government response to chapter 5 neighbourhood planning was published on 2 September 2016 and is available on the link below:

<https://www.gov.uk/government/consultations/implementation-of-planning-changes-technical-consultation>

## **Expanding the approach to planning performance**

The consultation covered detailed proposals to extend the existing successful designation regime to applications for non-major development.

The Government response to chapter 7 extending the approach to include applications for non-major development was included in an Explanatory Memorandum accompanying the Criteria Document for the designation regime, published on 22 November 2016 and is available on the link below:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/571962/EM  
- Criteria Document.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/571962/EM_-_Criteria_Document.pdf)



## Changes to planning application fees

- 1.1 We have heard for some time cross-sector concerns that local authority planning departments may not have sufficient resources to provide an effective service and that developers would be prepared to pay higher planning application fees if it meant a better service and performance. Therefore, we consulted on proposals which could ensure there was a link between an increase in fees and a high quality service, for instance through giving greater fee flexibility in exchange for radical planning service transformation, recognising that fees had not been increased since November 2012.

Question 1.1: Do you agree with our proposal to adjust planning fees in line with inflation, but only in areas where the local planning authority is performing well? If not what alternative would you suggest?

Question 1.2: Do you agree that national fee changes should not apply where a local planning authority is designated as under-performing, or would you propose an alternative means of linking fees to performance? And should there be a delay before any change of this type is applied?

- 1.2 We received 485 responses to question 1.1 and 431 responses to question 1.2. The majority of respondents, from all sectors, supported increasing planning fees, often citing concerns about resourcing in local authority planning departments. Many suggested that planning fees should be increased above inflation, and a number of local authorities called for localised fee setting.
- 1.3 A much broader range of views were expressed about whether any increase in fees should be linked to performance. Many respondents and local authorities in particular, were against the introduction of such a link, arguing that it could lead to perverse outcomes such as more refusals in order to meet timescales. They also argued that poor performing authorities are most likely to need additional resources to improve their planning departments. However, house builders and industry representatives were marginally more in favour of introducing a link between fee increases and performance as a means of incentivising improvement. A number of respondents highlighted that the performance designation regime and Planning Guarantee already provide a means of tackling poor performance, and some respondents from local authorities and professional organisations suggested that top performers should be given additional fee flexibilities as a way of incentivising performance.
- 1.4 Respondents across all sectors stated that if a performance link to fee increases was to be introduced then it should be based on being designated as poorly-performing under the planning performance regime, rather than on a relative threshold.

Respondents said that a relative threshold was arbitrary and unfair as authorities had limited certainty or control over whether they were above the threshold.

- 1.5 There were mixed views about whether there should be a delay before the Government introduced a link between fee increases and performance. Many of the public sector respondents, particularly local authorities, were supportive of a delay. In contrast, house builders generally supported no delay.

Question 1.3: Do you agree that additional flexibility over planning application fees should be allowed through deals, in return for higher standards of service or radical proposals for reform?

Question 1.4: Do you have a view on how any fast-track services could best operate, or on other options for radical service improvement?

- 1.6 We received 425 responses to question 1.3 and 371 responses to question 1.4. Local authorities were generally supportive of being able to access more flexibility over planning fees. House builders also supported this providing any additional flexibility would lead to a better service. Very few respondents commented on whether more planning fee flexibility should be enabled through devolution deals. Some respondents emphasised the need for transparency in how additional flexibility in fee setting will be taken forward and a small number of respondents interpreted the proposal as referring to deals between local authorities and applicants, rather than our intended approach of deals being between Government and local authorities.
- 1.7 A range of views were expressed by respondents about fast track services. Local authorities and house builders were marginally in favour of a faster or higher standard of service being provided by authorities in return for a higher fee. There was no clear view on whether fast track should be left to local discretion or prescribed nationally, or which applications would be suitable for a fast track process. A number of respondents said that fast track services were already offered through Planning Performance Agreements and respondents generally believed these were working well, although some developers thought these agreements lacked sufficient penalties where timescales were not met.
- 1.8 Respondents expressed a number of concerns about fast track services, including querying:
- whether a fast track service was feasible given existing statutory deadlines and factors beyond local authorities' control, such as the time taken for statutory consultees to comment on individual planning applications, which can impact on the time needed to determine an application; and

- how a fast track service would be resourced and whether it might negatively impact on the standard service, which risked creating an inequitable system for those who could not afford to pay for a premium service, such as community groups.

1.9 No respondents commented on other options for radical service improvement.

Question 1.5: Do you have any other comments on these proposals, including the impact on business and other users of the system?

1.10 We received 288 responses to this question. Responses ranged widely with many respondents repeating points made in response to the other questions above.

1.11 Some respondents reiterated the need for consultation requirements to remain unchanged under a fast track process. Their concerns included the need for sufficient time to consult those who needed reasonable adjustments in order to access planning information. A number of statutory consultees also suggested they should be able to charge fees at cost recovery if they were required to respond more quickly than the existing 21 day limit.

1.12 A small number of respondents also called for changes to fees, in particular introducing fees for non-funded planning work, such as enforcement.

### **Government response**

1.13 We are bringing forward a package of measures in the Housing White Paper to address concerns about local authority resourcing, including a 20% increase in planning application fees by summer 2017. Alongside these measures, we will continue to engage with areas interested in reforming their planning service and committing to performance improvements, in return for greater fee flexibility.

## Small sites register

2.1 The consultation paper put forward a proposal for a published list of small sites which would make it easier for developers and individuals, particularly those interested in self-build and custom-build, to identify suitable small sites for new homes, and could also encourage more land owners to offer land for development. The Housing and Planning Act 2016 contains a power to make regulations requiring local planning authorities in England to keep and publish a register of particular types of land in the authority's area. We proposed to use this power to require authorities to have a part of their register dedicated to "small sites". We suggested that the definition of small sites for this purpose should be sites of between one and four plots in size.

Question 4.1: Do you agree that for the small sites register, small sites should be between one and four plots in size?

2.2 The majority of respondents to the questions in this section were local planning authorities or parish councils. There were 414 responses to this question of which less than half were supportive and around a third were against. Many respondents used this question to query the merit of requiring authorities to publish a small sites register, rather than to comment on what size of site should be included in the register. They stated that the exercise of publishing and updating a small sites register would be an unnecessary distraction from plan-making and planning for housing and would be a disproportionate burden in view of the likely levels of housing it would deliver. Several of these respondents stated that central Government should host a national portal or that the commercial sector would be best placed to deliver the policy objectives.

2.3 Those respondents that disagreed with the size of site proposed for inclusion on the small sites register stated that the criterion should be based on area rather than on the number of plots, with one respondent suggesting that the size should be different in rural areas where a four plot site is often a much more significant development than in urban areas.

Question 4.2: Do you agree that sites should just be entered on the small sites register when a local authority is aware of them without any need for a suitability assessment?

2.4 Of the 399 respondents to this question, more than half disagreed that there was no need for a suitability assessment and wanted some assessment prior to entry on the small sites register, while over a quarter agreed that there should not be a suitability assessment. Many respondents who wanted some kind of suitability assessment were happy for this to be light touch which minimised the burdens on the local planning authority, but which would rule out clearly unsuitable land such as such as

sites in a Flood Zone or Green Belt. But some wanted a more stringent assessment to provide confidence that development could proceed.

- 2.5 Many respondents both for and against the proposal were concerned that an entry on the small sites register could give the impression that development was acceptable there, even though no - or only a limited - assessment had been made. They believed that caveating the register would not prevent this misconception. The view that the register would be better provided by the commercial sector if no assessment was involved was also reiterated.

Question 4.3: Are there any categories of land which we should automatically exclude from the register? If so what are they?

- 2.6 There was considerable support from respondents for excluding certain categories of land. There was overlap on the types of land proposed for exclusion, notably: Green Belt; Areas of Outstanding Natural Beauty; World Heritage Sites; conservation areas; listed buildings and their curtilage; flood risk areas; safeguarded or core employment sites; waste sites; open spaces protected by Local Plans; sites outside the urban area; allotments; back gardens; and sports and recreation grounds.
- 2.7 The consultation paper stated that sites on the small sites register would need planning permission for development in the normal way, which would protect these sites from unsuitable development. From the comments provided it was not clear that respondents always anticipated that this would be necessary.

Question 4.4: Do you agree that location, size and contact details will be sufficient to make the small sites register useful? If not what additional information should be required?

- 2.8 About half the respondents to this question wanted additional information included in the small sites register, while a third agreed with the proposal. -Many suggested that the small sites register be modelled on the brownfield register or should also contain: a site plan; site boundaries; indications of current land use and owners' intentions; constraints such as Green Belt, flood risk and proximity to heritage or protected habitat; or give an indication of suitability for particular forms of development.
- 2.9 In addition, some respondents raised concern around data protection issues associated with contact details. A suggestion was made that a free form text box should be provided enabling land owners to provide any additional information they thought was relevant.

## **Government Response**

- 2.10 We have carefully considered the responses provided to all four questions in this section. Given the views and concerns raised, our intention is first to explore with

local planning authorities and the commercial sector the information they are currently making available on small sites and whether they are able to provide greater transparency. If necessary, we will then look again at whether to require local planning authorities to hold a small sites register.

## Local plans

- 3.1 We have made clear our expectation that all local planning authorities should have a plan in place. Plans are the primary basis for identifying what development is needed in an area and for deciding where it should go, providing the certainty communities and businesses deserve.
- 3.2 A summary of the responses to the consultation is set out below.

Question 6.1: Do you agree with our proposed criteria for prioritising intervention in local plans?

Question 6.2: Do you agree that decisions on prioritising intervention to arrange for a local plan to be written should take into consideration a) collaborative and strategic plan-making and b) neighbourhood planning?

- 3.3 We received 297 responses to Q6.1 showing considerable support for the proposed criteria for prioritising intervention in local plans. Further clarity was sought from a number of respondents regarding the detail of the intervention criteria and how the criteria would be applied. It was also suggested that both local circumstances and factors outside the control of local planning authorities should be taken into account when considering intervention, for example, changes to national policy or local planning constraints.
- 3.4 There were 273 responses to Q6.2a and overwhelming support for collaborative and strategic plan-making being taken into consideration when making decisions on intervention. Many respondents agreed that joint working resulted in better quality plans, but believed that the potentially longer timescales and complexity involved should be taken into consideration.
- 3.5 There were 255 responses to Q6.2b demonstrating strong support for decisions on intervention to take into consideration neighbourhood planning. Responses were split however on how neighbourhood planning should be factored in. Some respondents suggested areas with a large number of neighbourhood plans would need more time for local plan preparation to reflect pressure on resources. Other comments however, proposed that intervention should be prioritised where there is evidence that a lack of local plan progress is hampering neighbourhood plan progress.

Question 6.3: Are there any other factors that you think the government should take into consideration?

- 3.6 We received 261 comments in response to Q6.3, with a number of comments suggesting a variety of contextual information that should be taken into consideration

alongside the intervention criteria. Many suggestions related to the production of plans specifically, such as the complexity of plans, the scale of the consultation responses and the length of time plans take to prepare. There were also suggestions relating to the wider planning context including environmental constraints, Green Belt, growth pressure and housing delivery.

Question 6.4: Do you agree that the Secretary of State should take exceptional circumstances submitted by local planning authorities into account when considering intervention?

3.7 There were 332 responses to Q6.4 with the overwhelming majority of respondents agreeing that exceptional circumstances should be taken into account when deciding whether to intervene in a plan. Many commented that this approach must be applied consistently, although the challenge of this was recognised, given the scope of what could constitute an exceptional circumstance. A number of those supporting this proposal mentioned that any exceptional circumstances should be clearly justified and evidenced.

Question 6.5: Is there any other information you think we should publish alongside what is stated above?

3.8 There were 259 respondents to Q6.5 with the largest proportion coming from local planning authorities. A variety of suggestions were made as to what should be published alongside that proposed in the consultation. A common response was the suggestion that a narrative should be published which would provide further detail around the types of plans being produced, the evidence base work being undertaken and an explanation of any slippage or acceleration in the local development scheme timetable. It was also suggested by some that information should be published which provided context to the current position in the local planning authority area such as objectively assessed need, 5 year land supply and the number of neighbourhood plans in a local planning authority area.

Question 6.6: Do you agree that the proposed information should be published on a six monthly basis?

3.9 There were 268 responses with considerable support for publishing information on a six monthly basis. Where respondents disagreed, it was suggested that information should be published on an annual basis as this would be a more appropriate timeframe to capture changes to local plan progress. A number of local planning authorities also suggested that publishing on a twelve monthly basis would correspond with their current reporting regimes.



## **Government response**

- 3.10 We are committed to ensuring that authorities are planning for the homes and jobs this country needs; that is why the Neighbourhood Planning Bill includes provisions to provide greater certainty that all areas are being planned for. We are bringing forward a requirement for every local planning authority to set out policies to deliver the strategic priorities for the development and use of land in their area in their development plan documents (unless they are satisfied that these priorities are addressed in a spatial development plan that covers their area). We are also legislating to enable the Secretary of State to prescribe intervals at which local planning authorities are required to review their planning documents, to ensure that plans are kept up to date. The Neighbourhood Planning Bill includes provisions which enable the Secretary of State to direct two or more local planning authorities to work together to prepare a joint development plan document, where this would ensure effective local planning in an area, for example, to address housing needs.
- 3.11 The Housing White Paper sets out measures to help us deliver our ambition to build more homes. In order to achieve this, local planning authorities need to prepare plans which are based on a clear understanding of housing need in their area, make effective use of existing land and release sufficient new land, while safeguarding key environmental protections. The Housing White Paper sets out our proposals for the planning system to deliver this and the approach that we will now take in light of these proposals, to ensure all areas have a plan in place.

## Testing competition in the processing of planning applications

- 4.1 The Government wants to work with local authorities, the private sector and professional bodies to develop pilots to test the benefits of introducing competition to the processing of planning applications. Therefore, a number of questions in the consultation sought to identify the issues that should be addressed in the design of the pilots, and potential solutions.
- 4.2 421 respondents gave a response to at least one question in this section. A wide range of detailed and specific comments about the design of the pilots were received. The most common responses are summarised below – there was a good deal of overlap and duplication in responses across the questions which we have tried to avoid in this summary by referencing specific points only once.
- 4.3 We have also undertaken an extensive engagement exercise, involving around 140 local authorities, over 30 private sector organisations or individuals and all the main profession bodies.

Question 8.1: Who should be able to compete for the processing of planning applications and which applications could they compete for?

- 4.4 There were 421 responses to this question. A number of local authorities and some professional bodies thought that only other local authorities should be allowed to compete, as they already have the IT infrastructure, data safeguarding measures and expertise in place to deal with applications. On the other hand, a similar number of local authorities and the majority of respondents from developers and businesses mentioned that any public or private sector organisation assessed as being suitably qualified should be able to become a ‘designated person’.
- 4.5 Many respondents across all sectors called for the Government to set stringent assessment criteria for potential ‘designated persons’, to ensure that all ‘designated persons’ had the necessary resources, experience and skills to process applications to a high standard. A number of people thought that Royal Town Planning Institute accreditation was a vital baseline, but should not be the sole criterion.
- 4.6 As for which applications should be within scope for competition, opinion was again divided. Many respondents believed that the pilots should only process householder and non-major applications, to avoid strategic sites and detailed development proposals with prolonged assessment and decision making which require many hand-offs between different people. However, a similar number of respondents said that the pilots needed to test the full spectrum of applications, to deliver robust and reproducible results.

Question 8.2: How should fee setting in competition test areas operate?

- 4.7 335 responses were received for this question. The overwhelming response from across all sectors was that the pilots must have a level playing field between local authorities and private sector providers, with both adhering to the same rules about how they can set their fees.
- 4.8 Many respondents, particularly local authorities, suggested that setting fees locally would allow local authorities to address local issues and at least recover the cost of their Development Management function, which would improve service delivery. On the other hand, other respondents stated that nationally-set fees would provide essential consistency for applicants and prevent either fees rising excessively or the provision of cheap but poor quality services.
- 4.9 There was some concern about private providers being able to ‘cherry-pick’ and process only the most profitable applications, leaving local authorities with little income, and no chance of cross-subsidising planning applications where the national fee is less likely to cover the cost of processing them. A number of local authorities stated that the cost of providing any information or services to ‘designated persons’ in their area should be reimbursed in full, to ensure that local authorities were not disadvantaged by supporting other providers.

Question 8.3: What should applicants, approved providers and local planning authorities in test areas be able to do?

- 4.10 310 respondents answered this question, with a wide range of responses about how the end-to-end process of determining planning applications should operate in the pilots. As a point of principle, a large number of respondents welcomed the fact that decision-making would remain with the local planning authority. There was also wide support for trying to keep processes as consistent as possible for applicants.
- 4.11 Many respondents agreed with our proposal that designated persons should perform all the functions a local authority currently does, up to the point of determination. Such an approach could help assuage concerns that introducing new providers to application processing could create new hand-off points between local authorities and the providers, and consequently increase costs and delays.
- 4.12 We suggested in our consultation that local planning authorities should determine planning applications within one or two weeks of receiving a report and recommendation from a ‘designated person’ about how the application should be determined. Many respondents said that this timeframe should be increased as it was impracticable and did not fit with monthly planning committee cycles.

- 4.13 Some respondents said that ‘designated persons’ should only carry out administrative functions, such as validating planning applications and sending out consultations i.e. activities which do not require much planning judgement to be exercised. However, other respondents thought that ‘designated persons’ would not have the necessary IT systems for these administrative tasks and could best use their planning expertise to assess planning applications and collate reports and recommendations for local planning authorities about how the applications should be determined.
- 4.14 There was no firm agreement about any activities that a ‘designated person’ should not be allowed to perform, although a number of concerns were raised about the provision of pre-application advice, maintaining the planning register, Section 106 negotiations, presenting recommendations to planning committee meetings and the discharge of conditions.

Question 8.4: Do you have a view on how we could maintain appropriate high standards and performance during the testing of competition?

- 4.15 This question received 304 responses, with broad agreement on a number of points. Many respondents suggested that a key mechanism for maintaining high standards was thorough stringent criteria for assessing whether or not a provider was suitable to be a ‘designated person’ in the pilots. It was suggested that ‘designated persons’ should have to prove that they could meet specified performance standards before they were allowed to participate in the pilots.
- 4.16 It was consistently suggested that local authorities and ‘designated persons’ should be subject to the same performance standards, to enable a level playing field between the two. A number of respondents recommended that poorly-performing ‘designated persons’ should have their ‘designated person’ status removed, although respondents did not suggest similar consequences for poorly-performing local authorities.
- 4.17 Respondents generally agreed that the current designation regime for poorly-performing local authorities should be waived or relaxed during the pilots for those authorities participating in them, with agreement that the pilots should be robustly evaluated through a range of metrics.
- 4.18 Respondents were concerned about conflicts of interest, with many recommending that ‘designated persons’ should not be service users, at least within the areas in which they were acting as ‘designated persons’. A number of respondents suggested that the Local Government Ombudsman’s remit should be extended to include

‘designated persons’ for planning, in order to deal with any complaints of misconduct or maladministration.

Question 8.5: What information would need to be shared between approved providers and local planning authorities, and what safeguards are needed to protect information?

4.19 311 respondents answered this question. The most frequently-cited pieces of information that will need to be shared included the planning and enforcement history for the application site, constraint layers, local consultation protocols and address lists, and validation requirements. Some respondents asked whether a local authority would be able to share this information within existing data protection legislation. There was broad agreement that ‘designated persons’ should adhere to data protection laws and should be required to respond to Freedom of Information requests.

4.20 There was general consensus that allowing ‘designated persons’ access to local authority IT systems during the pilots would be the easiest way for information to be shared between the two, although many respondents raised concerns about commercially-sensitive data also being at risk of being shared through such an approach with organisations who might also be service users. Some respondents suggested an alternative approach where ‘designated persons’ self-serve as much as possible using publically-available information from the local planning register, with the local authority electronically providing any additional information on request, provided that they are fully reimbursed for this service.

Question 8.6: Do you have any other comments on these proposals, including the impact on business and other users of the system?

4.21 327 responses were received to this question. The main point raised was that the pilots should be designed to avoid duplication of effort by different parties and inefficiencies, which might cause costs to rise.

4.22 Many respondents wanted to ensure that ‘designated persons’ maintained good communication with councillors, consultees and the wider public in order to build trust among communities. A number of respondents wanted to ensure that reliability, accountability and transparency is maintained throughout the pilots, so that the public perception of the planning system is not put into jeopardy.

4.23 Many respondents asked for further clarity about who would deal with various steps in the planning process, such as pre-application advice, appeals and discharge of conditions.

4.24 Overall, respondents made clear that they expected the quality of planning decisions and subsequent development to be maintained for communities, and that this should not be put at risk through too much focus on speed and efficiency for the applicant.

### **Government response**

4.25 We welcome the detailed responses that were submitted which, with our extensive engagement exercise, have informed our understanding of the issues that we will need to understand and address in designing the pilots.

4.26 Working with local authorities, private providers and professional bodies to co-design the pilots will be essential to getting the most effective design of the pilots and securing their success. We will reflect on all of the views expressed by respondents and consult further as we move forward.

## Information about financial benefits

- 5.1 Our consultation set out the positive benefits of making public the financial benefits of planning applications, during the course of the decision making process.
- 5.2 The majority of respondents broadly agreed with us that transparency in decision making is a positive step, particularly in terms of raising awareness among the public about the benefits of development. A number of developers, businesses and town and parish councils suggested that our proposals should not be restricted to financial benefits but should go further and require wider benefits of development, such as job creation and community well-being, to be set out during the decision making process. Many of these respondents, alongside a large number of local authorities, also thought that any benefits of development that are set out during the decision making process should be balanced by setting out the costs or dis-benefits of development, to give a complete picture.

Question 9.1: Do you agree with these proposals for the range of benefits to be listed in planning reports?

- 5.3 We received 396 responses to this question. Over half of respondents who selected “yes” or “no” were supportive of our proposal that, alongside “local finance considerations”, council tax revenue, business rates revenue and section 106 payments should be listed in planning reports going to a planning committee, where it is considered likely that they will be payable if the proposed development proceeds.
- 5.4 Over a third of local authorities who responded to this question, supported by a number of other stakeholders, believed that financial benefits should only be included in reports to a planning committee where they were a material consideration. It was suggested that section 106 payments and the Community Infrastructure Levy were already mentioned in the majority of reports going to a planning committee and they should continue to be included. But, a number of respondents thought that council tax and business rates revenue were not material considerations and therefore should not be included in planning reports.
- 5.5 Just over 20 local authorities suggested that council tax and business rates should not be referred to as a benefit or additional revenue since the revenue is used to provide services for the additional residents and businesses the development will bring in to the area. Similarly, a number of respondents commented that section 106 payments are used to mitigate the impact of a development by paying for the necessary infrastructure, and would not result in a net gain for the local authority or community. Respondents suggested that if the Government were to require council tax revenue, business rate revenue and section 106 payments to be listed in reports going to a planning committee, if they might accrue from a proposed development,

then we should require that the reports also set out what these benefits will pay for and who the recipients will be.

Question 9.2: Do you agree with these proposals for the information to be recorded, and are there any other matters that we should consider when preparing regulations to implement this measure?

- 5.6 We received 325 responses to this question. Over half of respondents who selected “yes” or “no” were supportive of our proposals to:
- require the estimated level of each financial benefit that is listed in the report to also be shown in the planning report;
  - prescribe that financial benefits accruing to any local authority, or if and where relevant a Combined Authority or Community Infrastructure Levy charging authority should also be listed alongside those accruing to the authority making the decision.
- 5.7 Almost a quarter of local authorities who responded to this question were concerned that the proposals would be burdensome for their officers and that the merits of the proposals did not outweigh the potential costs. They stated that reports to planning committees already contained all the information necessary for a committee to make a robust decision and that local planning authorities should retain their ability to decide what constituted a material consideration. Developers similarly had concerns that these requirements would add delays to the processing and determination of planning applications, particularly where additional parties (such as the Valuation Office and other local authorities) would need to be consulted to obtain information.
- 5.8 Some respondents commented that there may be practical difficulties with requiring authorities to set out the estimated level of each financial benefit listed in a report:
- loose estimates could be misleading and susceptible to challenge;
  - specific and accurate figures would be too difficult to calculate before committee stage;
  - council tax and business rate revenue could change quite significantly depending on the eventual occupiers of sites meaning that estimates for committee could be inaccurate.
- 5.9 A number of local authorities, town and parish councils and some developers said that, to avoid more third party complaints and challenges around ‘corrupt’ decision-making, the Government would need to ensure that regulations are very specific about what needs to be included in reports to a planning committee, and that local



authorities are provided with robust guidance about how these figures should be calculated.

### **Government response**

5.10 We welcome respondents' endorsement of the importance of transparency in decision making and raising the public's awareness of the benefits of development. We intend to bring forward regulations at an appropriate opportunity to require local planning authorities to deliver the proposals set out in our consultation.

## Section 106 dispute resolution

6.1 The Housing and Planning Act 2016 includes provision for a Section 106 dispute resolution process, to speed up negotiations and allow planning applications to proceed to determination more quickly. We consulted on how this process could work. The consultation sought views on some of the detail about how this new process could work, including the proposed scope, processes for commencing and running the dispute resolution process, appointed persons and post-dispute resolution matters.

6.2 A summary of the responses to the consultation is set out below.

Question 10.1: Do you agree that the dispute resolution procedure should be able to apply to any planning application?

6.3 There were 296 responses to this question. There was considerable support across all respondent types for the dispute resolution procedure to be available to all planning applications subject to a section 106 obligation. Those in favour consistently highlighted fairness as the key factor. Of those opposed, some stated that dispute resolution might be disproportionate and costly for smaller developments; that appropriate mechanisms already existed and that the process might stall rather than speed up planning as some applicants might deliberately delay negotiations in order to access dispute resolution.

Question 10.2: Do you agree with the proposals about when a request for dispute resolution can be made?

6.4 There were 253 responses to this question with more than half supporting the proposals that the existing statutory timeframes of 8, 13 and 16 weeks, with extensions possible where agreed, were the most appropriate time limits before the dispute resolution process could be requested. Many said that it was logical and easily identifiable to use the existing statutory timescales for determining applications. Some in support believed that meaningful engagement, such as the early provision of viability evidence and/or a draft section 106 instrument or heads of terms, should be demonstrated as a condition of referral. Some of those opposed said that meaningful negotiations might not have started by the time of referral and that some applicants would defer doing so until triggering dispute resolution. Others opposed stated that referral should be possible at any stage in the process as the need for dispute resolution might be recognised early. The ability to secure outcomes that make a development acceptable in planning terms was considered essential by respondents, and the need to consider the use of conditions if an obligation was removed through dispute resolution process is noted.

Question 10.3: Do you agree with the proposals about what should be contained in a request?

6.5 There were 241 responses to this question with considerable support for the proposal overall, and by each respondent type, that requests should be in writing; provide full details of the planning application in question; provide a draft section 106 instrument, and a statement setting out the matters in dispute. Some respondents said that viability appraisals and a statement of common ground on negotiations so far should also be requirements. Some of those opposed stated that Local Plan policies, Planning Committee reports and statutory consultee representations should be required. Some respondents suggested a draft S106 instrument should not be a requirement as the dispute resolution process would inform its contents.

Question 10.4: Do you consider that another party to the section 106 agreement should be able to refer the matter for dispute resolution? If yes, should this be with the agreement of both the main parties?

6.6 There were 246 responses to this question, which were evenly divided in terms of yes or no, generally across all respondent groups. Many of those in favour stated that the agreement of the two main parties should be a requirement. Some of those both in favour and against stated that county councils should be able to refer matters for dispute resolution. Some against suggested it may create a third party right of appeal and might encourage referrals seeking to delay applications.

Question 10.5: Do you agree that two weeks would be sufficient for the cooling off period?

6.7 There were 243 responses to this question, with considerable support for the proposal. Some respondents suggested a degree of flexibility might be built in to ensure that all parties to the section 106 obligation can be involved and that legal advice can be received. Some opposed to the proposal suggested 3-4 weeks as a more appropriate period; or alternatively the appointed person should be appointed but no action taken in the cooling off period.

Question 10.6: What qualifications and experience do you consider the appointed person should have to enable them to be credible?

6.8 There were 239 responses to this question. The most frequently suggested qualifications were experienced chartered planners or surveyors, Planning Inspectors, planning lawyers, valuation surveyors (with some citing the District Valuer) or viability experts. The importance of training in dispute resolution was also emphasised. Many respondents thought that the appointed person should specifically reflect the circumstances of each referral for dispute resolution or that the appointed person should be able to call on further expertise as required, from a pool of experts.

Question 10.7: Do you agree with the proposals for sharing fees? If not, what alternative arrangement would you support?

6.9 There were 246 responses to this question with about half opposed, many of whom were local authority respondents. Most responses, in which a view was stated, assumed that developers would almost always be the party requesting initiation of the dispute resolution proceedings. Some local authorities suggested that the applicant should pay and some stated that they did not have the resources to fund dispute resolution. Some respondents considered that there was an established principle that developers paid the costs of section 106 obligation negotiations, in respect of planning gain. Others suggested that the applicant might recoup some costs if dispute resolution found in their favour. Some of those in favour viewed shared costs as fair and appropriate with some stating that when section 106 obligation requirements were shown to be unreasonable and/or unviable all dispute resolution fees should be recoverable. Many respondents, including those both for and against the proposal, suggested that there should be a mechanism where fees could be claimed back from a party where that party has acted unreasonably or not fully engaged in the process.

Question 10.8: Do you have any comments on how long the appointed person should have to produce their report?

6.10 There were 190 responses to this question. There was strong support for the proposal that the appointed person should have four weeks to produce their report. Some respondents suggested that flexibility should be built in with longer periods to reflect complex cases, with some suggesting that a shorter period should be set for straightforward cases.

Question 10.9: What matters do you think should and should not be taken into account by the appointed person?

6.11 There were 206 responses to the question, with a significant majority being local authorities. Generally views were mixed between the suggestion that dispute resolution should only focus on the matters in dispute, which a significant number suggested would be viability considerations; and that all relevant matters connected to the planning application should be considered. Local authorities advocating consideration of only matters in dispute often noted that to widen the remit would impact on local authority decision making and could be dealt with via an appeal anyway. Those in favour of a wider approach suggested it was not usually possible to separate the different aspects of a planning case. A number of respondents highlighted the three statutory tests for a planning obligation as an appropriate starting point for dispute resolution.

Question 10.10: Do you agree that the appointed person's report should be published on the local authority's website? Do you agree that there should be a mechanism for errors in the appointed person's report to be corrected by request?

6.12 There were 234 responses to this question, with strong support for both proposals across all respondent types. Some respondents stated that viability and commercially sensitive information should remain confidential and others that full transparency should be demonstrated in the report.

Question 10.11: Do you have any comments about how long there should be following the dispute resolution process for a) completing any section 106 obligations and b) determining the planning application?

6.13 There were 237 responses to this question, which suggested 2-4 weeks but with flexibility built in for large scale or complex cases. There was strong support across all respondent types for four weeks and a few differentiated between section 106 completion and permission being granted. Some considered that flexibility needed to be built in with some suggesting that the appointed person should decide the time period in such cases. Some local authorities suggested six weeks on the basis that the report might make significant changes which would need further consideration by Planning Committee. The need for statutory consultees to understand the findings where relevant to them was also noted.

Question 10.12: Are there any cases or circumstances where the consequences of the report, as set out in the Bill, should not apply?

6.14 There were 166 responses to this question with views mixed across respondent types as to whether there should be circumstances where the consequences of the report should not apply. Those who thought there should be such circumstances highlighted material changes in the planning application; significant changes in circumstances and where both parties amicably come to an alternative agreement. Some commented that the report should not remove requirements that were there to make the application acceptable in planning terms while others commented that the process would be toothless if the report was not binding.

Question 10.13: What limitations do you consider appropriate, following the publication of the appointed person's report, to restrict the use of other obligations?

6.15 There were 178 responses to this question. Many commented that dispute resolution should deal with the matters already agreed to be in dispute, and that nothing in the report should limit the use of powers outside of those subject to the dispute resolution process, as they would be necessary to make the development acceptable. Others

stated that there should only be one dispute resolution hearing, which should cover all obligations subject to it or that come to light during it, and that other obligations should not be instigated as a direct substitute for those subject to the dispute resolution process.

Question 10.14: Are there any other steps that you consider that parties should be required to take in connection with the appointed person's report and are there any other matters that we should consider when preparing regulations to implement the dispute resolution process?

6.16 There were 201 responses to this question. Better national guidance on viability was highlighted, particularly by local authorities. Other comments included suggestions that there should be mechanisms allowing either party to withdraw if errors are discovered; parties to come to their own alternative arrangements at any stage in the process; and to reflect changes in land ownership. Some respondents suggested the report should comment on how mitigation measures might otherwise be funded if a reduction in developer contributions is proposed.

### **Government Response**

6.17 The independent review of CIL and its relationship with Section 106 planning obligations, published alongside this White Paper, found that the current system is not as fast, simple, certain or transparent as originally intended. The Government will examine the options for reforming the system of developer contributions including ensuring direct benefit for communities, respond to the independent review and make an announcement at Autumn Budget 2017. The Government will consider dispute resolution further, in the context of this reform.

## Permitted development rights for state-funded schools

- 7.1 The permitted development rights introduced in 2013 have been an effective tool in helping to ensure there is sufficient provision to meet growing demand for school places, increasing choice, and raising educational standards. In order to help deliver the Government's commitment to opening at least 500 free schools during this Parliament, which could provide 270,000 new school places, we consulted on further permitted development measures to help enable school providers to adapt more quickly to changing demands for school places, to make better use of existing buildings and sites, and ensure those schools opening using the existing one year temporary right are not timed out, due to delays in completing the permanent school sites.

Question 11.1: Do you have any views on our proposals to extend permitted development rights for state-funded schools, or whether other changes should be made? For example, should changes be made to the thresholds within which school buildings can be extended?

Question 11.2: Do you consider that the existing prior approval provisions are adequate? Do you consider that other local impacts arise which should be considered in designing the right?

- 7.2 We received responses from 304 respondents to this section of the consultation document. Most comments were by local planning authorities, with some comments from parish councils, voluntary organisations, individuals, professional bodies, house builders, developers, businesses, and industry representatives.
- 7.3 There was general support for the proposals, with detailed responses focusing on the detail of how the proposed permitted development rights would be framed to ensure any potential impacts such as flood risk and implications for highways could be mitigated. Respondents also highlighted the need to ensure the sustainable placement of schools; that impacts on neighbouring amenities could be managed; that there should be community consultation; and the potential impacts on the availability of play space and sports pitches.

### Government response

- 7.4 We welcome the support for the proposals and the recognition of the benefits of delivering additional school places more efficiently. We are bringing forward a package of new and extended permitted development rights as consulted. These measures will support the Government's commitment to deliver at least 500 free schools during this Parliament.

## Changes to statutory consultation on planning applications

- 8.1 Planning law prescribes circumstances where consultation must take place between a local planning authority and certain organisations (the authority or person) prior to a decision being made on an application. The organisations in question are known as ‘statutory consultees’ and they are under a duty to respond to the local planning authority within 21 days of receipt of the documents on which the consultee’s views are sought, or later date, subject to an agreed extension between the parties.
- 8.2 Despite generally high performance levels among the ‘Big 5’ statutory consultees<sup>1</sup>, recent data shows that for between 5 to 12% of cases<sup>2</sup> the ‘Big 5’ requested and received additional time from the local planning authority to respond beyond the 21 day statutory period.
- 8.3 Whilst there can be good reasons for agreeing an extension of time, we proposed addressing concerns about the propensity for statutory consultees to seek extensions of time by asking for views on the benefits and risks of setting a maximum period that a statutory consultee could request when seeking an extension of time.

Question 12.1: What are the benefits and/or risks of setting a maximum period that a statutory consultee can request when seeking an extension of time to respond with comments to a planning application?

- 8.4 There were 404 responses to this question. The question did not ask whether the respondent supported the proposal or not; however, using the balance of risks against benefits, about a third of respondents showed either direct or moderate support for the proposal; more than a third were generally opposed, and a third gave no clear view either way, though often raised important process issues.
- 8.5 A small number of respondents directly supported the proposal, stating that applying a time limit went to the core of efficient planning applications and would benefit all parties concerned as well as provide greater certainty for applicants and the local planning authority when processing applications. Support for the proposal was strongest amongst professionals and professional institutes; house builders and developers, including businesses. Support amongst public sector bodies was lowest.
- 8.6 Around a third of respondents showed moderate support for the basic idea of the proposal – i.e. they believed that setting a maximum extension period for statutory consultees was understandable, but that the period set would need to be reasonable

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<sup>1</sup> Environment Agency; Highways England; Historic England; Natural England; Health and Safety Executive

<sup>2</sup> Source: 2014-15 Annual Performance reports from the Big 5



and proportionate to enable bodies to make an informed response. The key risk identified was that not all information, especially of a technical nature, might be available within the timescale, which could lead to safeguards being compromised or the statutory consultee making unnecessary objections.

- 8.7 Around a third of respondents opposed the proposal. Opposition was most prevalent among local authorities, parish councils, public sector bodies, industry representatives and charity/environmental groups, who saw little to no benefit in constraining timescales further. A key concern was that a time limit on the period of extension that can be sought could lead to a greater number of complaints if the statutory consultee, feeling rushed to make a decision without paying due attention to all matters relevant to the planning application, made an 'in-principle' objection to the application; or made no objection at all based on not having properly reviewed the application and supporting material. This could result in poor decisions being made based on incomplete or incorrect information and lead to disputes and appeals, adding costs and delays. The issue of resourcing was connected to this, with the risk that pressure on statutory consultees would become more acute should stricter time periods be imposed.
- 8.8 Finally, around a third of respondents provided no clear position on the proposal, though often raised important process issues, particularly around the benefits of formalising in law the extension of time given to statutory consultees, and how effective this would be without a sanction. Alternatives to the proposals included engaging statutory consultees at the pre-application stage, so that key issues could be agreed from the outset

Question 12.2: Where an extension of time to respond is requested by a statutory consultee, what do you consider should be the maximum additional time allowed? Please provide details.

- 8.9 There were 297 responses to this question. About half of respondents stated that if an extension period was to be applied, then the default should be for 14 days, with the caveat that for major/complex applications the statutory consultee and the local planning authority should have the option of agreeing a bespoke timetable. Suggestions for other extension periods varied, with recommendations (in order of popularity) being 7, 21 and 28 days. About half of those advocating an extension of 21 to 28 days based their preference on the frequency of planning committee meetings (once a month) and that in many cases a decision on an application that was extended by 14 days would not likely be decided on until the next Committee meeting, which could be a month or more later.
- 8.10 Statutory consultees representing the 'Big 5' were quick to point out that against large volumes of applications submitted to them each year, the vast majority were

determined within the statutory 21 day period. Where extensions of time were requested these were invariably for complex development proposals, often presenting significant risks to the protection of, for instance, the natural environment, for which the statutory consultee required a longer timeframe to negotiate and agree a solution between the developer and local planning authority. With performance levels already high it was argued that introducing a formal time limit for extension could be seen as over-regulating a problem that only occurs in a small number of cases. Annual performance reports recently submitted by the 'Big 5' support this view, with data showing significant improvements in response rates in recent years (for 2015-16 an average of 97% of applications<sup>3</sup> were dealt with within the 21-day statutory period or the otherwise agreed deadline), including the roll out of new services at the pre-application stage.

- 8.11 The key risk identified by statutory consultees was that any restrictions on the time frame for seeking extensions could lead to perverse incentives and other unintended consequences – for instance, stricter deadlines might prompt consultees to issue a greater number of holding responses or withdraw from the process completely by issuing generic advice. Consequent to this might be the increased risk of legal challenge. In order to maintain their current high levels of performance for responding to applications, many statutory consultees stated that imposing an extension limit might encourage them to concentrate on simpler applications at the expense of those dealing with complex or large scale schemes.

## **Government response**

- 8.12 We welcome respondents' engagement on this measure and recognise that there are many reasons why statutory consultees seek extensions of time to respond to planning applications, not least to ensure that they can respond substantively. Whilst many recognised the importance of meeting statutory deadlines, they believed that setting a maximum extension period to respond to planning applications was a case of over-regulation and that delays should be best dealt with via alternative, non-regulatory measures. We agree with this approach and, given the likely minimal benefit of setting a maximum extension period, do not intend to pursue this measure.

- 8.13 We will continue to work with statutory consultees on this and on other non-regulatory measures to improve performance, without diminishing the quality of advice given on planning applications.

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<sup>3</sup> Source: 2015-16 Annual Performance Reports from the Big 5

## Upward extensions in London

- 9.1 Government is committed to increasing housing supply. We consulted jointly with the Mayor of London on proposals to deliver more homes in London by allowing a limited number of additional storeys on existing buildings through a permitted development right, local development orders or development plan policies. This was part of the Government's commitment explore how more homes can be built on brownfield land.
- 9.2 110 responses were received to the consultation from public and private sector organisations, businesses, local authorities, individuals and community groups. In summary, respondents were supportive of the principle of building up to deliver more homes but there were mixed views about the proposed mechanisms to do so.

Question 1: Would greater freedom to build upwards on existing premises be a viable option to increase housing supply while protecting London's open spaces?

- 9.3 There were 82 respondents to this question. About half agreed that it could deliver additional homes. However it was noted that building up on existing properties may be restricted due to the physical practicalities and costs involved rather than the burdens of securing planning permission.

Question 2: Do you agree with the proposal for a London permitted development right with prior approval, allowing the addition of new housing units where the extension is no higher than the height of an adjoining roofline, and no more than two storeys, to support delivery of additional homes in the capital?

- 9.4 We received 88 responses to this question. More than half of those were not supportive of the proposal, with a one-size-fits-all permitted development right approach considered unworkable. While it was noted that it could support town centres and deliver more homes, it was recognised that the complex prior approval that would be required to protect neighbours and the character and amenity of an area would result in a permitted development right that is no less onerous than a planning application.

Question 3: Do you agree that the proposed options for neighbour consultation provide adequate opportunity for comment on development proposals for upward extensions?

- 9.5 The proposed neighbour consultation scheme was welcomed, with suggestions it should be open to the wider community and amenity groups. Concerns were raised

that a permitted development right might not adequately protect conservation areas, and local planning authorities would be unable to influence the design of an area.

Question 5: Do you agree that local development orders would be an effective means to promote upward extensions and contribute to the delivery of additional homes for London?

9.6 We received 68 responses to this question. Half of those agreed that local development orders could be used in areas suitable for upward extensions, or for specific buildings. Respondents noted that the consultation requirements for a local development order would allow the local community to contribute to its design, and the local planning authority would be able to set design criteria appropriate to the character of an area and plan for any infrastructure requirements of the new homes. Comments acknowledged that local development orders may divert resources away from other planning functions in local authorities.

Question 8: Do you agree that proposals for a new London Plan policy supporting upward extensions would provide certainty and incentivise the development of additional housing in appropriate locations?

9.7 We received 68 responses to this question. There was considerable support for this approach. Respondents noted that a London Plan policy could provide certainty for developers and allow boroughs to encourage building up through development plan policies that are in general conformity with it. Views supporting this proposal considered that a planning application, submitted in line with a plan policy, would allow for consideration of the impacts of individual proposals, ensure they are appropriate to the character of an area, and could be more flexible in delivering homes than a tightly drawn permitted development right.

Question 9: What are your preferred option/s to support upward extensions to increase housing supply in London?

9.8 Respondents were asked if they preferred any of the three proposals and views received generally mirrored the responses to the individual measures set out above.

Question 10: Do you agree that premises in residential, office, retail and other high street uses would be suitable for upward extension to provide additional homes? Why do you think so?

9.9 We received 64 responses to this question. There was considerable agreement that premises in a range of uses may be suitable for upward extensions if the building is physically capable of extension and the architectural value is not diminished. It was also noted that consideration should be given to the impact on any existing users of the building and the impact of, for example, introducing residential use into a commercial area. This could be achieved through the consideration of a planning application.

### **Government response**

9.10 We welcome the support for the principle of upward extensions to existing premises to provide more homes in London. The responses have confirmed that there is potential to deliver more homes by increasing densities on brownfield land. It is clear that building up has a role to play in meeting the need for new homes across the country, not just in London, and the Housing White Paper proposes a package of measures to support building at higher densities and using land more efficiently for development. Our intention is therefore to take forward the policy option through the National Planning Policy Framework to support the delivery of additional homes by building up.

# **Rural Planning Review Call for Evidence – Summary of responses and consultation on new permitted development rights**

- 10.1 The Call for Evidence<sup>4</sup> for the Rural Planning Review was published jointly by the Department for Communities and Local Government and the Department for Environment, Food and Rural Affairs on 11 February. It ran for 10 weeks, until 21 April. It sought evidence on how the planning system was operating in rural areas and invited ideas about how the planning system could be improved to support sustainable rural life and businesses. Contributions were invited from all interested parties and meetings were held with representative organisations. The evidence provided has informed further thinking on development in rural areas.
- 10.2 There were 507 responses to the Call for Evidence, with 289 from individual users of the planning system, including 173 farmers. 44 responses were received from local planning authorities and 174 from parish councils, representational bodies, planning consultants, members of the public and others. Respondents offered wide-ranging, often contrasting, views. Many respondents concentrated on particular, individual circumstances which had limited wider application.
- 10.3 Key messages which emerged from the Review were that appropriate development was taking place in rural areas; some changes to permitted development rights and planning guidance could be beneficial; there was a continued need for rural housing for rural workers; rural planning issues needed to be better understood within local authorities and those who move to live in rural areas; and, resources of local planning authority planning services were stretched.

## **Rural development and agricultural permitted development rights**

- 10.4 133 of the 213 individual users who answered the question said they had carried out development in the past 5 years. The evidence from respondents described a wide variety of different types of development, across a range of business sectors, as businesses expanded and diversified in rural areas, mirroring what takes place in more urban areas, and demonstrating that rural areas were not closed to development. This is reflected in the planning application statistics<sup>5</sup> which suggests that approval rates for rural authorities are at least as high as the national average of 88%. However, it was suggested that there was still room for improvement in the planning system in rural areas, as stated below.
- 10.5 66 of the 173 farmers who responded stated that they had used agricultural permitted development rights. They gave examples of what they had used the rights for, which

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<sup>4</sup> <https://www.gov.uk/government/consultations/rural-planning-review-call-for-evidence>

<sup>5</sup> <https://www.gov.uk/government/collections/planning-applications-statistics>

were mainly for agricultural buildings of various sorts, but also included polytunnels and irrigation works. The evidence suggests that these permitted development rights are being used flexibly, as intended.

- 10.6 Of the 173 farmers who responded, 14 said they had carried out development involving a farm shop, 11 polytunnels and 3 on-farm reservoirs. In response to specific questions, 29 commented on farmshops, 23 on polytunnels and 13 on on-farm reservoirs.
- 10.7 On farmshops, the main issues raised related to planning conditions which were felt to be unreasonable, such as a high percentage of home-grown produce being placed on the sale of goods and opening hours excluding weekends and Bank Holidays. Some respondents raised issues related to transport and highways considerations, due to the increase in vehicle movements.
- 10.8 With regards to polytunnels, the main issues related to food producers being concerned that planning professionals were not giving sufficient weight to the growing importance of polytunnels in agriculture, for protection, production of high quality produce and extension of growing seasons, to meet customer demand for British grown produce. Other respondents were concerned about the visual and environmental impact of polytunnels.
- 10.9 Similarly, on-farm reservoirs were also subject to a range of views. Some thought the existing agricultural permitted development rights were sufficient, others that they should be granted specific permitted development rights. A number mentioned issues regarding the separate consideration of the planning application and the mineral abstraction application. It was also noted that climate change and impending policy changes would lead to more pressure to store water with more farmers developing on-farm reservoirs. Other respondents were concerned over the impact of on-farm reservoirs on the landscape and water system.
- 10.10 Ideas for new and amended permitted development rights were shared.

These ranged from removing existing permitted development rights, such as from pubs, to extending existing thresholds, such as to give equestrian uses the same rights as agricultural and to increase the size of farm buildings allowed. It was also suggested that improvements could be made to rights on hard-standing, emergency works and private rights of way.

## **Government response**

- 10.11 The Government considered those ideas on permitted development rights which would be the most helpful and appropriate in the national context. As a result, the Government is consulting on extending the thresholds for agricultural permitted development rights.

10.12 To support more flexibility in adapting to changing markets and technology, and to further support farming efficiency and productivity, we are seeking views on amending existing agricultural permitted development rights.

#### Consultation questions

Should the thresholds set out in Part 6, Class A of the Town and Country (General Permitted Development) Order 2015 (as amended) be amended, and if so:

- What would be appropriate thresholds including size and height;
- What prior approvals or further conditions would be required; and,
- Are there other changes in relation to the thresholds that should be considered?

10.13 In response to the issues raised regarding farmshops, polytunnels and on-farm reservoirs we propose to amend guidance to better support their development and to ensure they are given appropriate, positive consideration within the planning system. The guidance will make clear that:

- Planning conditions on farmshops should be reasonable and proportionate
- Appropriate weight should be given to the agricultural requirements of proposed polytunnels
- On-farm reservoir development should be considered in the context of the increased drive for more water storage and that the disposal of excavated waste was an acceptable by-product.

### **Rural housing and the use of agricultural buildings for residential purposes**

10.14 Many respondents raised the issue of rural housing, especially for rural workers and local people. Some commented that villages could become unsustainable, due to changing demographics and a constraint on development. A number considered that housing policies were usually designed for urban areas, and did not fit rural circumstances. Respondents suggested a number of ways to increase the supply of rural housing, such as by making more land available for housing by allowing more flexibility in village boundaries; making more use of in-fill within existing villages; and, bringing agricultural buildings and farmyards within the definition of brownfield land.

10.15 Around half of the respondents commented on the threshold for the permitted development right allowing conversion of agricultural buildings to residential use. Some respondents wanted more restrictions: others suggested that the right should be extended to allow conversion to and from other uses. A number suggested greater clarity was needed over what building operations were allowed when converting agricultural buildings to residential use. Respondents raised the issue of the need for more rural homes for local people.



## Government response

10.16 Chapter 1 of the White Paper describes how Government is taking forward other measures on increasing housing supply. These include maximising the use of small sites, which are often more appropriate in a rural setting, and supporting thriving villages, through a number of changes to national planning policy.

10.17 To further support delivery of rural homes for rural workers, the Government is consulting on a new agricultural to residential use permitted development right. It is proposed that this would allow conversion of up to 750sqm, for a maximum of 5 new dwellings, each with a floor space of no more than 150sqm. The Government is seeking views on how best to ensure these properties meet local need. It also proposes amending the existing Class Q permitted development right to increase the existing threshold from 450sqm to 465sqm to bring it into line with the current permitted development right threshold for agricultural development.

### Consultation questions

Do you consider that this proposal would be effective in creating more homes for rural workers, and if so:

- How should the right be framed to best ensure homes are available to meet local need; and,
- Should the new right have similar conditions to the existing Class Q right?

10.18 The Government will also revise planning guidance to clarify for applicants and local planning authorities what constitutes building operations reasonably necessary to convert the agricultural building to residential use within the existing permitted development right.

## Other issues

10.19 Respondents felt that local planning authorities and people who were new to rural areas did not always understand rural planning issues. For example, local planning authorities needed to consider how sustainability was different in rural areas to urban areas, and to give appropriate weight to the need for some agricultural workers to live near their livestock. It was suggested that this presents a challenge to the planning profession to ensure that training and development recognises that rural planning issues need appropriate consideration.

10.20 Respondents also felt that local planning authorities were under-resourced and that this was a barrier to development. The Government explains in Chapter 2 of the Housing White Paper how it intends to address this, including an increase in nationally set planning application fees.

