

Report to	Sustainable development panel 26 September 2012	Item
Report of	Head of planning service	6
Subject	Parliamentary written statement on Housing and Growth, and DCLG consultation on renegotiation of S106 agreements	

Purpose

To update Members on the Government's recent announcement of a package of measures to support economic growth, many of which are planning-related. It also includes a draft response to a current planning consultation, on the renegotiation of S.106 agreements.

Recommendation

That the panel:

- 1) notes the report in relation to the government's package of measures to support economic growth, and the responses set out in Appendix 1; and
- 2) comments on the proposed responses to the DCLG consultation, set out in Appendix 2.

Corporate and service priorities

The report helps to meet the corporate priorities to build a successful economic future for Norwich and secure sustainable growth and to strive for sufficient, good-quality, affordable housing, providing choice and accessibility, as well as the service plan priority

Financial implications

There are no direct financial implications to this report.

Ward/s: All wards

Cabinet member: Councillor Bremner – Environment and development

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Further Information

Ministerial Written Statement by the Secretary of State for Communities and Local Government (Rt Hon Eric Pickles MP): Housing and Growth; House of C), 6 September 2012:

http://www.parliament.uk/documents/commons-vote-office/September_2012/06-09-12/3.DCLG-HousingandGrowth.pdf

Renegotiation of Section 106 planning obligations: Consultation; CLG, 13 August 2012:
<http://www.communities.gov.uk/publications/planningandbuilding/renegotiationobligationsconsult>

Review of the barriers to institutional investment in private rented homes (the Montague Report); CLG, 23 August 2012:
<http://www.communities.gov.uk/publications/housing/privaterentedhomesreview>

Report

1. This report is concerned with recent government proposals to promote economic growth, many of which have implications for planning and the delivery of Council priorities.
2. The report is divided into two parts. The first part will examine the recent parliamentary written statement issued by the Rt Hon Eric Pickles, Secretary of State for Communities and Local Government (CLG) on 6th September 2012 which proposes a package of measures to get the national economy growing and support local economic growth. As part of this the report will look at the Montague report, a CLG commissioned review by Sir Adrian Montague of barriers to institutional investment in private rented homes, published in August 2012.
3. The second part of this report will focus on a current CLG consultation on the renegotiation of S106 planning obligations, with a deadline of 8th October.

Parliamentary written statement on Housing and Growth

4. The background to the written statement on Housing and Growth on 6th September is the government's desire to improve the state of the national economy and to improve conditions for local economic growth, including the provision of new homes to meet demographic trends and help support growth. This package of measures is intended to ensure that the government's reforms to the planning system to date are implemented as effectively as possible, and that the planning system plays as full a role as possible in supporting local jobs and local firms.
5. The written statement introduced a package of measures covering a range of planning and housing matters. The report will set out where possible the likely implications of the statement for Norwich. In a number of instances, measures will need legislation or statutory instruments to be produced. These will require consultation so will be subject to further consideration and may change. In addition the detail of the proposals will be important to assess their impact and this detail is not yet available.
6. The government views housebuilding as a major contributor to economic growth, with housing construction, repairs and maintenance accounting for an estimated 3% of GDP on average over past decade. The government commissioned the Montague review to consider the potential for attracting large-scale institutional investment into new homes for private rent – a model of investment that is much more prevalent in other countries than the UK.
7. The report concludes that there is real potential for investment in large scale developments of purpose built rented housing to grow and to be viable, and that the conditions are currently more favourable to this kind of development than they have been for some years. Recommendations include that the government should encourage local authorities to make more use of existing opportunities under the planning system to promote private rented schemes, by reaffirming its commitment to release public land for build to let projects, and through providing carefully targeted financial support to the sector with a view to leveraging in additional private capital. The report recognises the key role played by local authorities in this area.

8. The conclusions and recommendations of the Montague report have helped inform the package of measures announced by CLG. The full package of measures is set out in Appendix 1, with initial comments on implications for Norwich. However in summary these key measures are:
- Increasing investment in the private rented sector: up to £200m will be invested in producing high quality rented homes, and debt guarantees will be provided to institutional investors.
 - Affordable housing guarantees and tackling empty homes, including extending the use of guarantees to deliver more affordable homes.
 - Helping first time buyers by continuing to support housebuilding and to help people into home ownership through the Newbuy and FirstBuy schemes.
 - Accelerating large housing schemes, by developing proposals to improve the efficiency of housing supply and unlocking high value jobs in the UK.
 - Getting surplus public sector land back into use, by accelerating the release of surplus public sector land by strengthening the role of the Homes and Communities Agency.
 - Reducing planning delays: measures include allowing applications to be decided by the Planning Inspectorate if the local authority has a poor track record of consistently poor performance in planning decision-making; requiring more transparent reporting of council performance on planning and increasing the use of Planning Performance Agreements on major schemes; and encouraging swift determination of appeals by the Planning Inspectorate; and providing additional time for developers to get sites 'up and running' before planning permission expires.
 - Reducing the cumulative burden of red tape, including the impact of Section 106 requirements for affordable housing on site viability. The proposal is to introduce legislation to allow appeals of existing permissions which are considered unviable on the basis of the existing S106 agreement's requirement for affordable homes. As part of this the government is also consulting on allowing developers to renegotiate non-viable S106 agreements entered into prior to April 2010 (addressed in the second part of this report). The government is also proposing to review local and national standards with a view to rationalising them.
 - Supporting locally led development. The government will consider use of call-in powers for major new settlements with larger than local impacts, and encourage councils to use the flexibilities set out in the NPPF to make best use of previously developed land in Green Belt designations.
9. The initial response of officers to these measures is set out in the table at Appendix 1. However the level of detail for most of the measures is very sparse and in many cases the statement highlights that further detail will be forthcoming at a later date, which makes it difficult to respond to the proposals meaningfully.
10. Overall, although elements of what are proposed may help certain aspects of the economy the positive impacts, the measures proposed appear to lack coherence.

Elements of what is being proposed are considered likely to create a sense of uncertainty by introducing further changes to the planning system so soon after publication of the NPPF, which may further undermine market and development industry confidence. Furthermore there would appear to be some tensions between elements of the proposed reforms and the localism agenda. There are two particular aspects of the proposal which are considered to raise particular concerns for Norwich which are worthy of note here.

11. The first of these is the re-emergence of the proposals to introduce permitted development rights to allow the change of use from commercial to residential purposes without the need for planning permission. This measure was previously consulted on by government in 2011 who announced in July this year (in the wake of the publication of the NPPF which provided a strong policy presumption in favour of such development) that they were not intending to pursue this matter. Only 12% of respondents to the consultation had favoured the proposed change.
12. The City Council had objected strongly to the previous consultation drawing attention to the potential economic, environmental and transportation impacts that the change would bring about. This change would also result in conversion being able to be carried out without any consideration of whether any proportion of the new units created would be affordable or whether there is a need for any other infrastructure improvement to serve the development. This would create an uneven market where the building of new housing schemes was at a commercial disadvantage to housing created in converted buildings. Potentially this could further undermine efforts to bring about the redevelopment of under used and derelict sites across the City, especially in the City Centre. It would also impact adversely on aspects of long established economic policies.
13. It should be noted that the government has indicated that there will be the opportunity for local authorities to seek a local exemption to the proposals where they believe there will be an adverse economic impact. The detail of this will be investigated if these proposals are pursued.
14. The second aspect of particular concern is the combined effect on the changes on the ability to provide for new mixed developments which promote social cohesion even though this remains an objective of government housing policy. The Housing strategy for England (2011) "Laying the Foundations" states in the role of affordable and social housing that :-
 - Social housing is of enormous importance, for the millions who live in social homes and for the country as a whole.
 - It can improve people's life chances, providing the support they need, when they need it, to live safe, healthy and prosperous lives.
 - It can also support mixed sustainable communities and local economies, acting as a springboard to social mobility for those who want to make a better life for themselves.
15. However, the Affordable Homes Programme 2011-15 Framework effectively reduced the level of public grant subsidy going into the delivery of affordable housing on sites covered by sec 106 agreements, instead requiring cross subsidy from a range of sources including:
 - surpluses generated from existing stock on current rent levels;

- current RCGF and DPF funds, and anticipated increases in those funds from future forecast relevant events;
- cross subsidy generated from the development and sale of new open market homes; and
- cross subsidy from s106 agreements.

16. This introduced an expectation that s106 schemes can be delivered at nil grant input for both affordable home ownership and for Affordable Rent, effectively increasing the cost of delivering affordable housing to private sector developers and undermining the viability of a number of schemes where sec 106 agreements had been previously negotiated.
17. The implication of this and the redirection of grant into non sec 106 schemes has tended to be that whilst both the number and proportion of affordable dwellings on private sector led schemes has reduced, an increasing proportion of the total delivery of new units in Norwich have been on sites which have been developed for entirely affordable housing, much of it using Council owned and other public sector land which tends to be in areas of the City which already have a high proportion of affordable stock.
18. It is considered likely that the combined impact of the newly proposed measures will effectively increase this trend meaning that over time social divisions are likely to be increased rather than decreased. This potential impact of this could be much reduced if the current AHP is changed to allow grants that are available to be used in sec 106 schemes which could also assist scheme viability.
19. Further updates on the detail of these changes will be reported to Sustainable Development Panel as appropriate.

Government consultation on renegotiation of Section 106 planning obligations

20. As referred to above, the government is currently consulting on proposals to amend the Section 106 process within the planning system, whereby planning obligations on approved schemes are renegotiated in an attempt to progress development¹. Sources suggest 1,400 permitted housing schemes of 10 or more houses have stalled, the majority approved pre-April 2010; planning obligations are just one of a number of reasons for schemes being held back.
21. Whilst the government hopes renegotiation should continue to be voluntarily considered, there are proposals to allow signatories to a Section 106 Agreement (all those against whom a legal obligation can be enforced, not necessarily the applicant) to formally request a review.
22. In light of market conditions, it is proposed that the ability to formally request an immediate review would apply only to schemes permitted before 6th April 2010, being the period before the last two financial years of stagnated growth / compromised viability, and the date at which new legislation was introduced for obligations to meet

¹ Usually a S106 Agreement involves obligations on both public and private parties, but sometimes a developer will see fit to provide a Unilateral Undertaking to discharge their obligations without any requirements for action on the local authority's behalf, in the interests of expediting permissions in instances where the authority cannot commit to enter into the agreement

new 'tests'². Current procedures would remain for all other extant schemes, with formal reviews able to be requested after 5 years.

Current legislation

23. Planning obligations in a permission's Section 106 legal agreement can currently be renegotiated voluntarily, by either party to the Agreement, at any time³. Should a revised agreement not be possible, a local authority can be formally requested to reconsider and remove or renegotiate an obligation(s) only after the first 5 years of the obligation being entered into (i.e. usually when a permission is issued)⁴. Should a local authority refuse to renegotiate, their decision can be appealed via the Planning Inspectorate.

Proposed legislation

24. For all obligations in place since April 2010, the request period would remain at 5 years. Voluntary renegotiation would also remain available to all schemes at any time. However, the proposal would allow formal requests for a review and renegotiation of an obligation(s) on permissions granted before 6th April 2010 from only one month of the legislative change.

Procedure

25. To make an application to vary an obligation, a party must present a justification and explanation for the modification, and an alternative proposal. The authority considers whether the obligation remains necessary and whether it retains a 'useful purpose' (which may or may not be the purpose for which it was originally required), and if a development can remain acceptable and sustainable the obligation is modified or removed as proposed. Technically, there is no recourse for the authority to modify the obligation in a different way to that proposed by the applicant, although in practice the applicant can be invited to make a revised application with altered terms.

26. Applications for modifications to an obligation should fulfil certain criteria set out in statute, with the authority by return advertising the proposed alterations in similar manner as conventional planning applications, with a determination being reached within 8 weeks unless agreed differently. Appeals against a refusal to modify, or against non-determination within the time period, can be made within 6 months.

Implications

27. There are various forms of planning obligation, ranging from payment of financial contributions to improve existing facilities, providing off-site measures for enhanced public realm, providing on-site infrastructure necessary to facilitate broader development aims, and providing affordable housing on-site or financial contributions in lieu of provision.

² Community Infrastructure Levy Regulations 2010, requiring obligations to be necessary to the development, be directly related to the development, and reasonable in scale and kind.

³ Section 106A of the Town and Country Planning Act 1990.

⁴ The 5 year period was used to coincide with the implementation period for most permissions at the time, but has since been revised and implementation is now most commonly required within 3 years.

28. The process will not automatically involve the removal of all obligations or the dismissal of certain obligations out of hand. Further, current process in place (if continued) will ensure that an 'all or nothing' application would need to be refused if only some aspects were felt appropriate to be modified. Justification for any modification would still be needed, showing that in the applicant's opinion the obligation is no longer needed to 'serve a useful purpose' either in its current form or in its modified version. It will remain a requirement for the applicant to provide the clear evidence to justify a change.
29. The consultation presents affordable housing as being the largest proportion of all contributions. In Norwich this would apply to all schemes of 5 or more houses, ranging up to 33% affordable housing provision on-site⁵, unless it can be proven at the time of the permission to render a scheme unviable unless permitted at reduced levels. There is no doubt, however, that many schemes must have been stalled at least in part due to the retraction of much of the public funding available to housing associations / registered providers which has increased the cost of provision of affordable housing to the development industry.
30. The consultation (para. 16) appears to assume affordable housing will be reduced to much lower levels, or removed altogether, to allow development sites to become viable and a scheme progress. Any modification would still be tested against local plan policies to assess whether it serves its purpose through other means, such as providing alternative forms of affordable housing in type, quantity, tenure or delivery timescales.
31. In many instances, Norwich City Council as local planning authority has voluntarily reconsidered the merits of making changes to planning obligations in terms of facilitating development commencement. Terms of obligations have been varied in respect of the type of tenures available in affordable housing, in terms of the payment dates for obligations to be due (by way of improving a developer's cash-flow) and by the overall quota of affordable housing required. At all times, the LPA has worked with independent financial assessors to survey the building costs and development viability of the scheme in question, allowing for such variables as changing build costs over the years, problematic building conditions, reduced public funding, developers profit being commensurate with risk and the complexity of a scheme, and abnormal costs not apparent initially.
32. When considering a scheme which is presented as being unviable, the LPA has in recent years worked within a Prioritisation Framework for obligations, which sets out where flexibility can be applied to financial contributions. If a scheme is considered unacceptable without providing for certain facilities (such as a bridge at St Anne's Wharf) these would usually remain a requirement, but if obligations were derived from a formulaic policy-application (such as play equipment or education contributions) they might be reconsidered in-the-round, appraised against other contributions to find the optimal benefit, or appraised against other commitments from other sites in the area to see if similar benefits could be reached by pooled resources. The prioritisation process involves consultation with the Portfolio holder and eventual determination by Planning Committee. Since December 2011 this approach has

⁵ Joint Core Strategy policy 4 – Housing delivery.

been used in tandem with an approach which allows a financial contribution to be negotiated in certain circumstances in lieu of provision of affordable housing on site.

33. The council's proposed response to the consultation has been drafted on the basis of the above considerations. It is set out at Appendix 2 for members' comments. The end-date for the consultation is 8th October.

Appendix 1: Parliamentary written statement on Housing and Growth, 6th September 2012

The text of the original statement is set out below. Officer comments on its implications for Norwich are set out in italics.

Details of ministerial statement	Implications for Norwich										
<p>Overview</p> <p>The Coalition Government's number one priority is to get the economy growing. We must create the conditions that support local economic growth and remove barriers that stop local businesses creating jobs and getting Britain building again.</p> <p>In November, the Government published a comprehensive housing strategy and we have rapidly put in place measures set out in the strategy to support a thriving, active and stable housing market.</p> <p>We are reforming the Right to Buy by significantly increasing the discounts available to tenants to buy their own home. We launched our NewBuy scheme allowing people access to mortgages with only a 5% deposit. And to unblock stalled sites with the capacity for up to 16,000 homes we launched the £570 million Get Britain Building fund. We also announced plans to dispose of public sector land with the capacity to deliver 100,000 homes, and invested £770 million in infrastructure for housing and growth through the Growing Places Fund.</p> <p>House building starts across England were 29 per cent higher in 2011 compared to 2009. But there is far more to do to provide homes to meet Britain's demographic needs and to help generate local economic growth.</p>	<p><i>The desire to stimulate the development economy and increase the rate of house building is undoubtedly necessary. In Norwich the rate of house completions has declined considerably and consistently since 2007:</i></p> <table> <tr> <td>2007/08</td><td>1040</td></tr> <tr> <td>2008/09</td><td>527</td></tr> <tr> <td>2009/10</td><td>399</td></tr> <tr> <td>2010/11</td><td>377</td></tr> <tr> <td>2011/12</td><td>280</td></tr> </table> <p><i>Of the 280 new homes built in Norwich in 2011/12, most of these involved some aspect of public finance. Only 110 of these homes were for the private sector.</i></p> <p><i>This is despite extant planning permissions existing for over 3000 homes and the planning framework providing for in excess of the government target of having 5 years housing supply readily available. Many significant developments such as St Anne's Wharf, Anglia Square, Barrack Street and Harford Place remain undeveloped for a variety of reasons.</i></p>	2007/08	1040	2008/09	527	2009/10	399	2010/11	377	2011/12	280
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<p>1. Increasing investment in the private rented sector</p> <p>The rented sector already provides good quality homes for many young people, professionals and families. But growth has been constrained by the lack of large scale investment. We invited Sir Adrian Montague to report on the barriers to institutional investment and intend to take up Sir Adrian's key recommendation. Today I can announce that we will be investing £200 million in housing sites to ensure that the high-quality rented homes that are needed are available to institutional investors quickly. And we will be establishing a taskforce to bring together developers, management bodies and institutional investors to broker deals and deliver more rented homes.</p> <p>The Government will also use its hard earned fiscal credibility to pass on lower costs of borrowing to support the long-term delivery of new rental homes. To give institutional investors the assurance they need to invest in this area we will be issuing a debt guarantee for up to £10 billion for this scheme and the affordable housing scheme set out below. Under the scheme, the Government will enable providers to raise debt with a Government guarantee, where they commit to investing in additional new-build rented homes. From tomorrow [7th September], the Government will be inviting expressions of interest from companies wishing to benefit from the scheme. It is expected that housing associations, property management companies and developers will be amongst those to benefit.</p>	<p><i>More detail is required in order to understand how the £200m can be applied for but we welcome investment in good quality private rented accommodation.</i></p> <p><i>Institutional investors have questioned the government plans to underwrite housing association borrowing as part of a £10 billion guarantees package to kick-start house building. Having achieved what they believe would be reasonable yields from housing associations there is a sense they would rather have the yield than the guarantees.</i></p>
<p>2. Affordable Housing Guarantees and tackling empty homes</p> <p>The need for affordable housing remains high. We will therefore be extending the use of guarantees to cover borrowing needed to deliver more affordable homes. Building on the success of the Affordable Homes Programme, the Government will invite bids to provide up to an additional 15,000 affordable homes through the use of loan guarantees, asset</p>	<p><i>Additional funding to provide affordable housing is welcomed although £300m to provide 15,000 new affordable homes and bring back 5,000 empty homes equates to £15,000 per home of grant backed up by the use of asset management</i></p>

<p>management flexibilities and capital funding. We also intend to extend our successful refurbishment programme to bring an additional 5,000 existing empty homes back into use. In total we will invest another £300 million.</p>	<p><i>disposal proceeds and cheaper money from the loan guarantee scheme, which really has no detail available yet explaining how it will work.</i></p> <p><i>This is less than the average £20,000 per dwelling provided by the Affordable Homes Programme and may not be attractive to Registered Providers. It is also not clear if this will only be provided for completions that can be made by March 2015 and whether it can be used in sec 106 schemes. Unless the current AHP is changed there is a real risk that the affordable housing that is built will tend to reinforce social divisions rather than to contribute to mixed and balanced communities as is the stated intention of the 2011 Housing Strategy.</i></p> <p><i>It is unclear to date how the loan guarantee scheme will work and to what extent it increases Housing Association appetite and capacity.</i></p>
<p>3. Helping first time buyers To complement supporting the rented sector, we also want to help those who want to get onto and move up the housing ladder. Building on our existing schemes, we will continue to support house building and to help people into home ownership through Newbuy - making it easier to access a mortgage with only a 5% deposit. We are working with the Home Builders Federation and the Council of Mortgage Lenders to increase take up and grow the number of builders and lenders</p>	<p><i>An extension of the Firstbuy scheme will be welcomed by house builders that have schemes on site although it may not be enough to persuade stalled sites to come forward.</i></p>

<p>in the scheme. I welcome Monday's announcement that Aldermore, have joined the scheme – taking the number of lenders up to six, over 70% of the market. Homebuilders and lenders will work together on a concerted marketing campaign over the Autumn to raise consumer awareness and understanding of scheme.</p> <p>We will also allocate an additional £280 million, with a matching contribution from house builders, to extend our very successful FirstBuy scheme to March 2014. This will allow up to 16,500 additional first time buyers to purchase a home.</p>	
<p>4. Accelerating large housing schemes</p> <p>The need for new homes is acute, and supply remains constrained. There are many large housing schemes in areas of high housing demand that could provide real benefit to local communities once delivered But, large schemes are complicated and raise a wide range of complex issues that can be difficult to resolve.</p> <p>Building on success in working with Kent local authorities and developers to unlock major housing opportunities at Eastern Quarry in the Ebbsfleet Valley, the Government will work in partnership with local authorities, scheme promoters and communities to accelerate delivery of locally-supported, major housing sites. These will be sites where there is local support for growth, strong demand for new homes, and good prospects for early delivery.</p> <p>Off-site construction can create skilled jobs, improve the quality of homes and ultimately bring down costs. An industry-led group convened by DCLG and BIS, will look in detail at the barriers holding back the growth of this part of the sector and how increased use of such techniques can be incentivised. We will ask this advisory group of experts to prepare proposals by Budget 2013, with the aim of improving the efficiency of housing supply and unlocking high value jobs in the UK. Thanks to the</p>	<p><i>We welcome proposals that may bring large stalled sites forward and will await the detail with interest. The main barrier to such sites coming forward in Norwich is the lack of mortgage availability and historically high land prices that have been paid.</i></p> <p><i>The Council is also taking action in its partnership with the Homes and Communities Agency, to provide construction training and jobs for local people through our employment and skills package ('Building Futures in Norwich').</i></p>

<p>Government's credible fiscal strategy, homeowners are benefiting from historically low interest rates. However, the private sector needs to be able to access both finance and land to build the homes we need. The Funding for Lending Scheme, run by the Bank of England with the approval of the Government, provides strong incentives for banks and building societies to boost lending, including mortgages and loans to businesses.</p>	
<p>5. Getting surplus public sector land back into use In response to emerging conclusions from a review chaired by Tony Pidgley, Chairman of the Berkeley Group, the Government will accelerate the release of surplus public sector land by strengthening the role of Homes and Communities Agency outside London through a targeted programme of transfers from other Government Departments and agencies. We will also work to accelerate disposals by preparing the land for market and providing a single 'shop window' for all surplus public sector land. We will work with the Mayor of London with a view to developing a similar approach in London, and to resolve how other measures are delivered for the benefit of Londoners.</p>	<p><i>The HCA has no land holdings in Norwich. Norwich City Council is using its own land assets to bring forward new housing development, eg Bowthorpe, and in the South City Centre.</i></p>
<p>6. Reducing planning delays To get more homes built – and more workshops, factories and offices – we need a planning system which works proactively to support the growth that this country needs. The National Planning Policy Framework is a major step forward. It has been widely welcomed by business, and as a result of its positive influence we are already seeing accelerated plan-making and more positive decision-taking. We are clear that local people – and local authorities – must be at the</p>	<p><i>There is a need to see the detail of how this system will work and how the performance of planning authorities will be judged. The existing measures of both the speed of planning determinations and the proportion of appeals upheld by the Inspectorate may not be ideal measures of speed or quality. However, it would appear likely that they will be</i></p>

heart of planning. The last government tried top-down imposition of growth and unequivocally failed. The imposition of Regional Strategies built nothing but resentment, with house building falling to its lowest peacetime rate since the 1920s.

The Localism Act has put the power to plan back in the hands of communities, but with this power comes responsibility: a responsibility to meet their needs for development and growth, and to deal quickly and effectively with proposals that will deliver homes, jobs and facilities.

Today we are announcing a series of additional measures to drive the effective implementation of these reforms and remove unnecessary bureaucracy that can hinder sustainable growth.

Given the importance of efficient and effective planning decisions for the economy, we need to ensure that where there are clear failures in performance, that applicants are able to access a better service. We propose to legislate to allow applications to be decided by the Planning Inspectorate, if the local authority has a track record of consistently poor performance in the speed or quality of its decisions. Planning is a quasi-judicial process: justice delayed is justice denied. It is unfair to all parties for local planning authorities simply to fail to make timely decisions on a planning application – creating uncertainty both for applicants and local residents.

In support of this we will also require more transparent reporting of council performance on planning, and will be working with the Local Government Association to increase the use of Planning Performance Agreements for major schemes – which commit both applicants and planning authorities to a clear timetable for determining proposals. In addition, we intend to give Planning Inspectors more power to initiate an award of costs in planning appeal proceedings, where it is clear that an application has not been handled as it should have been with due

used to assess performance. This stresses the importance of maintaining planning service performance in relation to these indicators.

The principle of removing local elected members from the planning process for development of only local importance seems to run contrary to stated aims of the Localism Act.

Norwich CC Planning Performance is regularly reported to both Planning Applications Committee and through corporate performance reporting. With regard to Planning Performance Agreements these are commonly associated with agreements with developers to cover the costs of determining planning applications (which are often much higher than the statutory planning fee). As such this may

<p>process.</p> <p>Swift determination of appeals by the Planning Inspectorate is also of critical importance. We will consult shortly on options to speed up planning appeals – and for a new fast-track procedure for some small commercial appeals. I have also instructed the Planning Inspectorate with immediate effect to divert resources to prioritise all major economic and housing related appeals, to ensure applicants receive a response in the quickest possible time.</p> <p>I have also extended a measure that allows developers the chance to seek additional time to get their sites up and running before planning permission expires, for an additional year. This measure will cut the costs of getting developments back on track.</p> <p>Getting the infrastructure projects that the country's economic success relies upon underway as swiftly as possible is also a top priority. The</p>	<p><i>not be universally welcome by the industry although the principle would appear acceptable. Inspectors currently have powers to award costs in an appeal when either party has acted unreasonable. If extended powers are being introduced it is important that they are balanced and don't provide an incentive for the development industry to circumvent or not comply with normal planning procedures and policies.</i></p> <p><i>Speeding up planning decisions taken by the Inspectorate is a welcome step. Currently the average time taken to determined planning appeals is considerably in excess of that to determine applications. This is also relevant to the suggestion that the Planning Inspectorate will take on the role of failing local authorities. Again, the detail of this measure will be important. It will be difficult to reconcile with the Localism Agenda if schemes that have no national importance are determined at the national level.</i></p>
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<p>planning regime for Major Infrastructure which deals with many of these cases is bedding in well and is bringing benefits through its streamlined and more certain processes. We want to ensure that this planning regime rightly focuses on the most important schemes whilst also extending the benefits of it to other forms of development which are of national importance.</p> <p>To achieve this we now intend to review the thresholds for some of the existing categories in the regime, and also to bring new categories of commercial and business development into the regime – making it possible for such schemes, where they are of sufficient significance, to be considered and determined at a national level. We will also work to extend the principle of a one-stop-shop for non-planning consents for major infrastructure, and amend the Special Parliamentary procedures which apply to major infrastructure to ensure they are fit for purpose.</p>	
<p>7. Reducing the cumulative burden of red tape</p> <p>It is vital that the affordable housing element of Section 106 agreements negotiated during different economic conditions is not allowed to undermine the viability of sites and prevent any construction of new housing. This results in no development, no regeneration and no community benefits at all when agreements are no longer economically viable.</p>	<p><i>In Norwich we now have an established approach to assessing viability of schemes and assessing their acceptability when viability will not allow the full range of contributions to be made. We have also a published approach to circumstances where we will allow contributions to affordable housing to be made instead of provision being made on site and these two documents work together.</i></p> <p><i>We have never refused to renegotiate a sec 106 when asked to do so. We do have policies that seek affordable housing provision on housing sites;</i></p>

<p>The Government estimates that up to 75,000 new homes are currently stalled due to site viability. S106 is an important tool to provide affordable housing and we welcome the flexible approach that many councils have already taken to renegotiating these agreements where necessary. The Government is also acting to get developers and councils around the table through its new mediation scheme. However, given the current imperative for growth, we need to do more.</p> <p>The Government will now introduce legislation, to be effective in early 2013, which will allow any developer of sites which are unviable because of the number of affordable homes, to appeal with immediate effect. The Planning Inspectorate will be instructed to assess how many affordable homes would need to be removed from the Section 106 agreement for the site to be viable in current economic conditions. The Planning Inspectorate would then, as necessary, set aside the existing Section 106 agreement for a three year period, in favour of a new agreement with fewer affordable homes. We would encourage councils to take the opportunity before legislation comes into effect to seek negotiated</p>	<p><i>on larger sites the percentage sought is 33%. It should be realised the purpose of the policy is not only to help meet needs for affordable housing but also to promote social inclusion. Building sizeable developments with little or no affordable housing may raise other issues that need consideration. Our policies do allow in certain circumstances for other sec 106 contributions to be reduced instead of or as well as affordable housing. On certain sites this may mean that other contributions are foregone to allow some provision of affordable housing.</i></p> <p><i>This is not a common sense approach and is likely to cause operational problems at the planning inspectorate and raise legal issues about a third party changing a legal agreement they were not party to. A more common sense approach would be to extend the process that the government is currently consulting on to allow appeal where agreement cannot be reached between the developer and local authority. It is important to require developers to seek agreement with the local</i></p>
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<p>solutions where possible.</p> <p>Alongside this, the Government is also consulting on legislation that would allow developers to renegotiate non-viable Section 106 agreements entered into prior to April 2010.</p> <p>There is concern that the array of local and national standards used in different parts of the country is complex and counter-productive: confusing local residents, councillors and developers. I am announcing today a fundamental and urgent review led by Government working with interested parties to rationalise these standards. This review will result in a clear plan of action by next spring, including legislative approaches if a significant rationalisation cannot be agreed.</p>	<p><i>authorities before allowing any appeal.</i></p> <p><i>The suggested response to this consultation is attached as appendix 2</i></p> <p><i>It is not clear whether this refers to different local policies which may require different levels of affordable housing in different areas or whether it refers to methods of assessing viability of development proposals. If it refers to the former it is very worrying as it is only reasonable that affordable housing levels and other matters covered by sec 106 agreement vary from one place to another reflecting local needs and market conditions.</i></p> <p><i>If the government is seeking to publish a standard approach to viability assessments of development this is potentially very welcome. Authoritative guidance about acceptable models for assessment, reasonable rates of return to incentivise development and guidance on how to deal with land values (particularly where debt is still secured on property) would be very welcome as they could save much time and cost in dealing with such issues which is a major and growing pressure on local authority budgets and performance. This suggests an interesting change of direction since the publication of NPPF when it was suggested that very little guidance of this nature would be given.</i></p>
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<p>8. Supporting locally-led development</p> <p>We have previously made clear the importance we attach to delivering new large-scale settlements. The recovery criteria already includes large residential developments. To align this with the call-in process, I will also carefully consider the use of call-in for major new settlements with larger than local impacts.</p> <p>To support locally-led development, communities will share in benefits including the New Homes Bonus, Community Infrastructure Levy contributions towards local infrastructure, and the financial benefits of business rates discounts and forthcoming business rates retention from April 2013.</p> <p>The Green Belt is an important protection against urban sprawl, providing a ‘green lung’ around towns and cities. The Coalition Agreement commits the Government to safeguarding Green Belt and other environmental designations, which they have been in the new National Planning Policy Framework. The Localism Act allows for the abolition of Labour’s Regional Spatial Strategies which sought to bulldoze the Green Belt around thirty towns and cities across the country, subject to the Strategic Environmental Assessment process, as outlined in my Statement of 3 September 2012, Official Report, Column 5WS.</p> <p>As has always been the case, councils can review local designations to promote growth. We encourage councils to use the flexibilities set out in the National Planning Policy Framework to tailor the extent of Green Belt land in their areas to reflect local circumstances. Where Green Belt is considered in reviewing or drawing up Local Plans, we will support councils to move quickly through the process by prioritising their Local Plan examinations... There is considerable previously developed land in</p>	<p><i>Any incentives to those communities and Councils who are seeking to deliver growth are welcome but are not as important as assistance with meeting the costs of infrastructure needed to properly deliver the growth. Providing greater certainty about the level of funding likely to be available to support improvement to transportation, health, education and other infrastructure would be of far more use.</i></p> <p><i>Norwich has no designated green belt surrounding it. There is a danger with too much focus on green belt issues that a focus favouring brownfield development ahead of Greenfield (but not greenbelt) development will be lost. Both policy and financial instruments should seek to encourage brownfield redevelopment in sustainable places.</i></p>
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<p>many Green Belt areas, which could be put to more productive use. We encourage Councils to make best use of this land, whilst protecting the openness of the Green Belt in line with the requirements in the National Planning Policy Framework.</p>	
<p>9. Helping homeowners improve their homes</p> <p>As a nation, we have great pride in our homes, and I want to make it easier for families to undertake home improvements: not just to cut red tape and strengthen individual homeowners' rights, but also to help generate economic activity which will support small traders in particular. I am announcing today a further package of simplification measures to remove red tape and ease the burden on local authorities. We will consult shortly on changes to increase existing permitted development rights for extensions to homes and business premises in non protected areas for a three-year period. This will mean less municipal red tape to build a conservatory and similar small-scale home improvement and free up valuable resources in local authorities.</p>	<p><i>This is regarded as problematic. Permitted development rights have only fairly recently been reviewed following an exhaustive and rigorous process. The new standards reported to be proposed are such that there will be many instances where of the scale proposed to be allowed would have a significant detrimental impact on living conditions of neighbouring residents. Issues such as orientation and height differences can be important consideration in determining the acceptable size of even single storey extensions.</i></p> <p><i>The proposed change may allow a number of developments which have recently been refused and upheld on appeal to be built. Also the proposed temporary nature of the changes is not understood. It would appear to accept that the environmental impacts of the changes are likely to be unacceptable but are justified by the need to get the economy moving. This appears perverse when the development built will be permanent.</i></p>

10. Getting empty offices into use

We have already undertaken a series of measures to make change of use easier, to help get empty buildings back into productive use.

We will introduce permitted development rights to enable change of use from commercial to residential purposes, while providing the opportunity for authorities to seek a local exemption where they believe there will be an adverse economic impact. This common sense measure will help the regeneration of our towns and cities. Our high streets will benefit from a greater resident population, increasing footfall and supporting local shops.

This proposed measure potentially has very serious implications for Norwich. It was consulted on by government in 2011 and as recently as 3 July this year (in the response document to the 2011 consultation) the government signalled it was not intending to pursue this measure (Only 12% of the respondents to the consultation favoured this proposed change), instead relying on a proposed new policy in the NPPF stating that local planning authorities ‘...should normally approve planning applications for change to residential use and any associated development from commercial buildings (currently in the B use classes) where there is an identified need for additional housing in that area, provided that there are not strong economic reasons why such development would be inappropriate...’

As the NPPF was only introduced in March this year for such a rapid change in policy to be introduced now provides little comfort to the development industry and planning profession that the impact of such a change has been understood.

The city council strongly objected to the proposal on the grounds that it would lead to loss of offices in the city centre and increased office development in unsustainable urban edge locations, additionally resulting in the potential loss of s106 receipts and future CIL revenues to fund infrastructure which would normally flow from such conversion schemes.

It would potentially create a perverse incentive for the market to bring forward conversions to residential use ahead of new building meaning that the viability of the redevelopment of derelict brownfield sites will be further undermined

In Norwich our policies seek to increase both the quality and quantity of office accommodation in the City Centre. This is an important aspect of our economic development strategy and the retention of office employment in the City Centre will result in positive impacts on transport networks, retail environment and the City's cultural offer. Employment levels in the City Centre have fallen recently and it is important that this trend is not encouraged and remaining employment threatened by allowing residential conversion of office stock without control. Current policies do allow for conversion where appropriate, the recent consent issued on Westlegate Tower is an example of this.

Perhaps more importantly, planning policies ensure that where conversion takes place its environmental consequences are considered. Conversion of office stock has the potential to put pressure on local services (health, education, parks etc) and change transportation impacts. The requirement for planning permission means that such issues will be looked at and any accommodation will be built with provision for amenity space for residents, refuse

	<i>collection, car and cycle parking etc. Without the requirement there is a risk of creating sub-standard accommodation which may be used to house the vulnerable people in inadequate conditions. This could have significant impacts on the character of certain areas.</i>
This package of measures will ensure that the reforms which we have made to the planning system are implemented as effectively as possible, and that the planning system plays a full a role as possible in supporting local jobs and local firms.	

Appendix 2: proposed officer response to CLG consultation on renegotiation of S.106 planning obligations

Dear Sir

Thank you for consulting us on the renegotiation of Section 106 planning obligations below. Our response to the consultations questions are below. However, since the publication of the consultation the ministerial written statement issued on 6th September on housing and growth suggested the government was intending to introduce more far reaching legislation on this matter shortly. If such legislation is introduced to allow any developer of unviable sites to appeal against a sec 106 agreement with immediate effect it rather renders your proposed amendment rather academic.

In the circumstances it is suggested that some reconsideration be given to this issue. In particular it has to be asked if the new legislation announced on the 6th September would be necessary if a further amendment to this consultation were proposed. If it were possible to amend the proposed regulation to allow an application to made to a local planning authority to modify or discharge a planning obligation at any point following a period of (say) two years after it was entered into and allowing the right of appeal to the Planning Inspectorate should agreement on this not be reached, surely this would have much the same effect as the proposed legislation but with much less of a burden on the planning inspectorate and avoiding the need for yet further new legislation.

The responses to the three questions you asked in your consultation below. Please note these were drafted before 6th September.

(1) Is the Government's objective to encourage formal reconsideration of Section 106s on stalled development supported by the shortened relevant period given in the draft regulation?

Proposed response:

- The LPA receives very few formal requests for amendment of obligations which aren't already linked to revised planning applications or applications for 'extensions of time'. Usually amendments are made voluntarily, and resolved relatively smoothly. Bringing forward the period for requesting formal review will affect only a small number of unimplemented and extant sites, or implemented but stalled sites, most of which have already probably been subject to some level of informal reappraisal or revised application scheme.
- There should be no reason to object in principle to the revised timescale provided that developers are still required to provide the clear evidence currently needed to justify their proposed modification. Changes to application requirements could potentially incur greater costs and procedural delays on authorities if they are not afforded clear proposals and supporting evidence from the applicant.
- The requirement to provide evidence of need should fall to the applicant rather than the authority, for whom resources are stretched.

- For schemes permitted after 6th April 2010, it is suggested that the Government reconsiders the procedure to allow requests for formal reconsideration to only apply within 3 years of entering into the obligation, to be more consistent with the current imposed timescales for development permissions to be commenced.

(2) Does 6th April 2010 represent a reasonable cut-off for the proposed change?

Proposed response:

- There is no objection to the date¹.
- Could it arguably be more appropriate to consider using the date from which public funding was retracted from housing association grants, and thus making the affordable housing elements harder to finance?
- The Government should remain aware that many permitted extant schemes with reduced contributions (negotiated as part of permissions or through modifications) remain unimplemented / uncompleted due to a developers' concerns for the value of their site as a whole, against which the planning obligations are often only a minor proportion. Whether this is due to 'landbanking', or attempts to wait for improved residual land values, or whether this is because major house builders only have a limited investment portfolio for an area, it is often far beyond the remit of planning to intervene and stimulate development.

(3) What approaches could be taken to secure acceptable affordable housing delivery through revised obligations?

Proposed response:

- Norwich currently uses a pragmatic and progressive method of securing affordable housing through revised agreements or permissions where viability is known to be compromised already. The practices can be lengthy but most often secure a robust position agreeable to all parties. This process is set out clearly in the development plan and associated practice notes which acknowledges the need for flexibility in terms of tenure, unit type and, as a last resort, payments in lieu of on-site provision.
- Improvements to delivery could be made nationally by issuing clearer guidance on the form of affordable housing considered acceptable (such as different modes of shared equity housing) and the benefits of entering into obligations which retain an element of flexibility.
- There should be no assumption that affordable housing should be compromised in favour of development viability, and there should be an allowance for alternative payments required to be made to be off-set. One example may be that there could be elements of a development's finance that will soon be collected through Community Infrastructure

¹ There is no known way to test how many extant permitted schemes remain unimplemented or stalled post-implementation, but anecdotal advice suggests only a very few will remain. Applications due to expire and which have had an 'extension of time' permitted will have been required to either provide a new S106 Agreement or a variation of such, so changing the date the obligation was entered into.

Levy contributions, currently non-negotiable, which in other instances might have been considered less of a priority than affordable housing. If there were a mechanism for a proportion of CIL monies, or business rates, VAT, Council tax or stamp duties to only be paid after a 'holiday' period, there would be clear and immediate incentive to develop, which might overcome a developer's reticence about not receiving an immediate return on their initial purchase price now that residual land values are so much lower than before the economic downturn.

- "Overage clauses" should become more commonplace, and to do so local authorities should be given more guidance / encouragement / support for their use by Government. Such post-development re-appraisal is probably only rarely used, but offers some reassurance that theoretically there remains a possibility of the development making good its compromised community commitments. Such mechanisms should be required as part of any permission which is granted with less than the expected 'policy-compliant' planning obligations. This would be used to address the trend for development permissions to be increasingly seen as an investment tool.
- There is also scope for improved links with the way that public funding is allocated for affordable housing through planning. The current chicken-and-egg situation prevents a scheme being seen as viable without public funding and a registered provider's commitment to invest, but the registered provider is unable to commit to a prospective scheme without permission. Developments should perhaps be required to include a 'policy-compliant' affordable housing commitment, on the expectation that a post-permission reappraisal mechanism will be used to allow schemes with affordable housing obligations to reappraise their financing when a registered provider is able to commit to a scheme and perhaps gain access to residual funding. Whilst an authority will probably not always gain the 'policy-compliant' level of housing, the reappraisal allows a more realistic level to be agreed and potentially greatly increases the speed of both permissions being granted in the first instance, and thereafter development commencing.
- Housing authorities could be supported in providing a more frequent review of local housing need, and perhaps provide assessments on a more detailed scale, to find the most up-to-date housing need in terms of affordable housing types, proportions, tenures and delivery timescales. The results should thereafter be required to automatically become a part of the development plan upon local authority adoption, so as to provide a continually appropriate and necessary picture of housing requirements to inform planning decisions.