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Cherwell District Council

Executive

Minutes of a meeting of the Executive held at Bodicote House, Bodicote, Banbury, OX15 4AA, on 7 March 2016 at 6.30 pm

Present: Councillor Barry Wood (Chairman), Leader of the Council
Councillor G A Reynolds (Vice-Chairman), Deputy Leader of the Council

Councillor Ken Atack, Lead Member for Financial Management
Councillor Norman Bolster, Lead Member for Estates and the Economy

Councillor John Donaldson, Lead Member for Housing
Councillor Michael Gibbard, Lead Member for Planning
Councillor Tony Ilott, Lead Member for Public Protection
Councillor D M Pickford, Lead Member for Housing
Councillor Nicholas Turner, Lead Member for Change Management, Joint Working and ICT

Also Present: Councillor Sean Woodcock, Leader of the Labour Group

Apologies for absence: Councillor Kieron Mallon, Lead Member for Banbury Futures

Officers: Ian Davies, Director of Operational Delivery
Martin Henry, Director of Resources / Section 151 Officer
Scott Barnes, Director of Strategy and Commissioning
Adrian Colwell, Head of Strategic Planning and the Economy, for agenda item 7
Andy Preston, Head of Development Management, for agenda item 8
Kevin Lane, Head of Law and Governance / Monitoring Officer
Jon Westerman, Development Services Manager, for agenda item 8
David Peckford, Senior Planning Officer, for agenda item 7
Natasha Clark, Team Leader, Democratic and Elections

127 **Declarations of Interest**

There were no declarations of interest.

128 **Petitions and Requests to Address the Meeting**

There were no petitions or requests to address the meeting.

129 **Urgent Business**

There were no items of urgent business.

130 **Minutes**

The minutes of the meeting held on 1 February 2016 were agreed as a correct record and signed by the Chairman.

131 **Chairman's Announcements**

The Chairman made the following announcements:

1. Members of the public were permitted to film, broadcast and report on the meeting, subject to the efficient running of the meeting not being affected.
2. The Chairman welcomed Scott Barnes to his first meeting of Executive. Scott had been appointed as the Director of Strategy and Commissioning for Cherwell District Council and South Northamptonshire Council following the recent management restructure.
3. The Chairman explained that this would be Martin Henry's, the Director of Resources, last meeting of Executive as he was leaving Cherwell District Council and South Northamptonshire Councils. On behalf of the Executive, the Chairman thanked the Director of Resources for the contribution he had made to the council and wished him all the best for the future.
4. The Chairman noted that Calvin Bell, Director of Development, would also be leaving Cherwell District Council and South Northamptonshire Councils at the end of March and conveyed Executive's gratitude for his contribution to the council and best wishes for the future.

132 **Kidlington Masterplan - Draft Supplementary Planning Document**

The Head of Strategic Planning and the Economy submitted a report which sought approval of a draft Kidlington Masterplan for formal consultation.

Resolved

- (1) That the draft Kidlington Framework Masterplan be approved for formal public consultation.
- (2) That the Head of Strategic Planning and the Economy be authorised to make any necessary minor and presentational changes to the issues paper before formal consultation commences.

Reasons

A Draft Kidlington Masterplan has been prepared for the purpose of public consultation. The Masterplan expands and provides further details to the

objectives and policies contained in Local Plan Part 1 and benefits from extensive research carried out by the appointed consultants.

Preparation of the Masterplan has been supported by stakeholder engagement and detailed discussions with Kidlington Parish Council's strategy group. There is now a need for a formal period of public consultation to obtain wider views and to meet statutory requirements for the preparation of Supplementary Planning Documents. Members are recommended to approve the Draft Masterplan for that purpose.

Alternative options

Option 1: To delay consultation: A consultation now will provide officers with the opportunity to progress the Masterplan to completion. There has been some delay due the need to consider Local Plan Part 1 in its adopted form. Kidlington Parish Council's strategy group is supportive of a public consultation being undertaken as soon as possible.

Option 2: To reconsider the content of the Masterplan: The Draft Masterplan has been produced having regard to an extensive evidence base and stakeholder engagement. It is considered by officers to be an appropriate consultation document. Following the consultation, there is the potential for further refinement in the light of representations received.

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Local Enforcement Plan

The Head of Development Management submitted a report which sought consideration of the Local Enforcement Plan.

Resolved

- (1) That the Local Enforcement Plan (annex to the Minutes as set out in the Minute Book) be adopted.

Reasons

Paragraph 207 of the National Planning Policy Framework (NPPF) recommends that local planning authorities consider publishing a Local Enforcement Plan (LEP) to manage enforcement proactively, in a way that is appropriate to their area.

Alternative options

Not to agree to adopt the LEP. This would inhibit the Planning Enforcement Team's ability to effectively manage breaches of planning control. It would also forego the opportunity to improve the public's understanding of the planning enforcement system.

134

Queen Elizabeth II's 90th Birthday Celebration Grants

The Director of Operational Delivery submitted a report which sought consideration of a grant scheme to encourage community celebrations of Her Majesty Queen Elizabeth II's 90th year.

Resolved

- (1) That the Queen Elizabeth II's 90th Birthday Celebration grants scheme be approved.

Reasons

The proposed grant scheme will honour Her Majesty Queen Elizabeth II. It will encourage community cohesion and neighbourliness in Cherwell's parishes and urban communities.

Alternative options

Option 1: Consideration has been given to extending eligibility to informal neighbourhood groups. This has not been recommended because the money would be paid over to individuals rather than established, accountable organisations.

Option 2: Consideration has been given to restricting grants to events taking place on the Queen's birthday (21 April), or her official birthday weekend (10-12 June). Given the work involved in organising an event and the short lead-in times to apply for this grant, it is considered fairer to extend eligibility to events throughout the summer.

Option 3: Not to establish a grants scheme to celebrate the Queen's 90th year.

135

New Homes Bonus Draft Consultation Response

The Director of Resources submitted a report which sought consideration of a draft response to the Government's consultation exercise on New Homes Bonus.

Resolved

- (1) That the Government's consultation document "New Homes Bonus: Sharpening the Incentive" be noted.
- (2) That the draft response to be submitted by this Council (annex to the Minutes as set out in the Minute Book) be endorsed.
- (3) That authority be delegated to the Director of Resources, in consultation with the Lead Member for Financial Management, to finalise the response for submission to the Government by 10 March 2016.

Reasons

On 17 December 2015 the Government released a consultation paper on New Homes Bonus called "New Homes Bonus: Sharpening the Incentive". The report sets out a number of options that are being considered and seeks views on them.

It is recommended that the draft response to the consultation paper is considered and delegated authority granted to finalise the submission prior to the deadline which is 10 March 2016.

Alternative options

Executive could decide not to consider the attached draft response but this is rejected as it is in the Council's interest to respond to such a document.

136

Performance Management Framework 2015/16 Quarter 3 Report

The Head of Transformation submitted a report which presented the Council's performance for the period 01 October – 31 December 2015 (quarter three), as measured through the performance management framework.

Resolved

- (1) That the following achievements be noted: CBP1 2.4: Complete Bicester Town Centre regeneration including the Council's Commercial Building; CBP3 1.1a Deliver 150 units of affordable housing (Pledge); CBP 3 1.3a Provide housing/grant advice to encourage private sector landlords to improve their stock; CBP3 2.5: Contribute to the creation and/or safeguarding of 200 jobs; CBP3 7.3 Processing of Major Applications within 13 weeks; CBP3 7.4 Processing of Minor Applications within 8 weeks; and, CBP3 7.5 Processing of Other Planning Applications within 8 weeks.
- (2) That the following performance related matters be identified for review or consideration in future reports: CBP1 4.3 Establish new management arrangements for Stratfield Break Sports Group; CBP2 2.1b: Number of fly tips recorded; CBP4 6.1 Percentage of Council Tax collected; and, CBP4 6.2 Percentage of NNDR collected.
- (3) That it be noted that there was no feedback or referrals on performance issues from the Overview & Scrutiny Committee at its meeting on 23 February 2016 provided directly to the Leader.

Reasons

This is a report of the Council's performance in the third quarter of 2015/16 measured through the performance management framework. The report covers key areas of performance against the Council's Business Plan, incorporating its public pledges, Corporate Equalities Plan and Partnerships.

Alternative options

Option 1: To note the report

Option 2: To request additional information on items and/or add to the work Programme for review and/or refer to Overview and Scrutiny

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Quarter 3 2015-16 - Revenue and Capital Budget Monitoring Report

The Director of Resources submitted a report which summarised the Council's Revenue and Capital position as at the end of the first nine months of the financial year 2015-16 and projections for the full 2015/16 period.

Resolved

- (1) That the projected revenue and capital position at December 2015 be noted.

Reasons

In line with good practice budget monitoring is undertaken on a monthly basis within the Council. The revenue and capital position is reported monthly to the Joint Management Team and formally to the Budget Planning Committee on a quarterly basis.

The revenue and capital expenditure in Q3 has been subject to a detailed review by Officers and reported monthly to management as part of the corporate dashboard.

Alternative options

Option 1: This report illustrates the Council's performance against the 2015-16 Financial Targets for Revenue and Capital. As this is a monitoring report, no further options have been considered. However, members may wish to request that officers provide additional information.

The meeting ended at 7.10 pm

Chairman:

Date:

Appendix 1 – Local Enforcement Plan

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1 Introduction

- 1.1 Cherwell District Council's Planning Enforcement Team comprises a group of dedicated officers who investigate upwards of 400 alleged planning breaches each year. The Council has a statutory duty to ensure that these complaints are investigated and appropriate action, where necessary, is taken. The principal remit of this Local Enforcement Plan is to ensure that the Council's resources, directed at planning enforcement, are put to the best possible use.
- 1.2 The Local Enforcement Plan has been written in accordance with Government guidance contained in the National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG). The NPPF was published in March 2012 and provides an overview of how the planning system should help to deliver sustainable development. The PPG is an electronic document which has been regularly updated since going live in 2014. It helps to explain how the Government objectives, set out in the NPPF, can be achieved. Of particular relevance to the Local Enforcement Plan is the sub-section in the PPG entitled *Ensuring effective enforcement*.
- 1.3 Although not a requirement, Paragraph 207 of the NPPF sets out the advantages that a local planning authority (LPA), and the community for which it is responsible, would derive from producing a Local Enforcement Plan:

*"Effective enforcement is important as a means of maintaining public confidence in the system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. Local planning authorities should consider publishing a **local enforcement plan** to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so."*

- 1.4 The aim and objectives of this Local Enforcement Plan are therefore as follows:
 - To identify the Council's planning enforcement priorities
 - To provide a framework for the investigation of alleged breaches of planning control
 - To set out the range of action that can be taken where it is considered appropriate to do so
 - To proactively monitor the implementation of planning permissions
- 1.5 The plan is built around a process of escalation. In most circumstances, where there has been a breach of planning control, the Council will only issue a formal notice where it is expedient to do so having regard to the provisions of the development plan and to any other material consideration. This assumes that informal negotiations have been or are expected to be unsuccessful.
- 1.6 The Local Enforcement Plan will be kept under review and will be amended, when required, to take into account changes in national legislation, policy and guidance, the Local Development Plan, resources and priorities. The Local Development Plan currently includes the saved policies of the Cherwell Local Plan 1996 and the Cherwell Local Plan 2011-2031 Part 1.

2 What is a Breach of Planning Control?

Legislative Background

- 2.1 The primary legislation for planning enforcement is set out in Part VII of the Town and Country Planning Act 1990, which includes amendments set out in the Planning and Compensation Act 1991 and the Planning and Compulsory Purchase Act 2004. They are collectively referred to as the “Town and Country Planning Act (as amended)” and, for the purposes of this document, by the acronym TCPA.
- 2.2 The TCPA states that planning permission is required for *development*. Section 55 defines *development* as: “the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.”
- 2.3 A breach of planning control is defined at Section 171A as “the carrying out of a development without the required planning permission, or failing to comply with any condition or limitation subject to which planning permission has been granted”.
- 2.4 Relevant secondary legislation:

The Town and Country (General Permitted Development) Order 2015 (GPDO)

The GPDO sets out *development* that homeowners and other bodies can carry out without the need for planning permission. They are commonly referred to as ‘permitted development rights’.

The Town and Country Planning (Use Classes) Order 1987 (as amended)

This legislation sets out the various categories that different uses of land fall into and what constitutes a material change of use that would require planning permission.

Planning Breaches

- 2.5 The majority of planning enforcement investigations therefore involve one of the following alleged breaches:
- Building work or engineering operations carried out without planning permission
 - Unauthorised change of use of land or buildings
 - Development which has not been carried out in accordance with an approved planning permission
 - Failure to comply with a condition or legal agreement attached to a planning permission
 - Any contravention of the limitations on, or conditions belonging to, permitted development rights, set out in the GPDO.
- 2.6 Although not breaches of *planning control*, other matters which are dealt with by the Planning Enforcement Team include:
- Demolition taking place in conservation areas where permission is required
 - Works carried out to a listed building which affect the historic character or setting, without listed building consent being granted
(Demolition in a conservation and works to a listed building fall under the remit of the Planning (Listed Building and Conservation Areas) Act 1990 (as amended))

- Removal of, or works carried out, to protected trees and hedgerows without consent being granted or proper notification given
- High hedges
- Display of advertisements, which require consent under the Town and Country Planning (Control of Advertisements) Regulations 2007
- Failure to comply with the requirements of an Enforcement Notice (see Section 6)

For the purposes of this document, future references to planning control will also include the breaches identified in the paragraph above.

Non Planning Breaches

2.7 The Council regularly receives correspondence for matters which are not breaches of planning control. Whilst the Planning Enforcement Team may not be able to deal with such grievances there may be other legislative controls open to a complainant. The most common examples of which are:

- Neighbour nuisance, boundary and land ownership disputes. These are civil matters that the Council cannot get involved in. Further advice can be obtained from a solicitor or the Citizens Advice Bureau
- Use of or development on the highway, footway or verge that is covered by highway legislation. Complainants are advised to contact Oxfordshire County Council via the following link: <http://fixmystreet.oxfordshire.gov.uk/>
- Dangerous structures are normally the responsibility of our Building Control Department. They can be contacted on (☎ 0300 003 0200)
- Anti-social behaviour including fly tipping, noise and smell are the remit of the Council's Environmental Health Team (☎ 01295 227007)

2.8 As already referred to above, the GPDO makes provision for development that can be carried out without the need for planning permission and is therefore immune from any action. For example not all domestic extensions and outbuildings require planning permission. Homeowners should however be mindful that the permitted development set out in the GPDO may have been removed by the Council and they should therefore check the property's planning history (available either via the Council's website or at the Council offices, on microfiche, in respect of older permissions/consents) before carrying out any works which are reliant on this legislation. The removal of permitted development rights would ordinarily be via a condition on a planning permission or in architecturally sensitive areas by an Article 4 directive.

3 Principles of Good Enforcement

Expediency

3.1 Planning enforcement is a discretionary power. In deciding whether it is appropriate to take enforcement action the degree of harm the unauthorised development is causing, or is likely to cause, will be carefully considered. Harm can arise through a range, or a combination of factors:

- Adverse impact on visual amenity due to poor design or inappropriate materials
- Loss of privacy or overshadowing and loss of natural light
- Inappropriate development that is harmful to the landscape or the setting of a heritage asset
- Untidy land and run down or derelict buildings that present a very poor quality environment and/or prejudice community safety
- Failure to comply with a condition of a planning permission leading to an adverse impact
- Danger and disturbance due to significantly increased traffic flows
- Loss of protected trees
- loss or damage to listed buildings and demolition of buildings in a conservation area

3.2 Harm, for the purposes of planning, does not however include:

- Breaches of restrictive covenants
- Private disputes
- Competition between businesses
- Loss of an individual's view or trespass onto their land (including ownership disputes)
- Damage to property
- Reduction in value of land or property

Proportionality

3.3 Enforcement action should always be proportionate to the seriousness of the harm being caused. It should, for instance, not always be taken to regularise development which is otherwise acceptable on its planning merits but for which planning permission has not been sought.

3.4 When considering proportionality the PPG advises the following in respect of the human rights of those responsible for the breach as well as those affected:

The provisions of the European Convention on Human Rights such as Article 1 of the First Protocol, Article 8 and Article 14 are relevant when considering enforcement action. There is a clear public interest in enforcing planning law and planning regulation in a proportionate way. In deciding whether enforcement action is taken, local planning authorities should, where relevant, have regard to the potential impact on the health, housing needs and welfare of those affected by the proposed action, and those who are affected by a breach of planning control.

Consistency

3.5 The Council will take a similar approach to cases in order to achieve similar outcomes. However a full consideration of all the circumstances of individual cases means that there is not necessarily any uniformity in the outcome of apparently similar cases.

Decisions made by the Council have to be reasonable and require appropriate measures in order to remedy the breach. This will be achieved by:

- Following advice contained within Government guidance on legal procedures, planning policy and good practice
- Adhering to the planning policies within our Local Development Plan and Supplementary Planning Documents in the interests of protecting our Conservation Areas, Listed Buildings as well as other designated land and features
- Keeping up-to-date with Government circulars, case law and court judgements
- Liaising with various partner agencies and statutory consultees notably in cases where their specialist guidance and knowledge is required (e.g. the Environment Agency and Historic England)

Negotiation

3.6 In all but the most serious cases where the Council may go straight to formal action, the Council will seek to negotiate compliance rather than pursue formal enforcement action, providing that an appropriate resolution can be achieved in a timely manner. Negotiations aim to achieve one or more of the following outcomes:

- To undertake work to comply with the planning permission granted
- To apply for retrospective planning permission for the works undertaken or a variation to the works that are more likely to secure permission
- To remove an unauthorised development
- To cease an unauthorised use

3.7 However, negotiations will not be allowed to impede or delay whatever formal enforcement action may be required to make the development acceptable in planning terms, or to compel it to stop.

4 Enforcement Priorities and Response Procedure

4.1 Given the number of alleged breaches that occur throughout the year, it would be impossible to investigate and pursue all cases within an equally rigid timeframe given the resources available. Therefore each investigation is prioritised according to the seriousness of the alleged breach and the degree of harm being caused. The table below sets out the three categories of alleged breach which will allow the Council to respond in a fair, proportionate and timely manner according to the nature of the allegation.

Priority Category	Potential Planning Breach	Site Visit (working days)	Complainant Response Time (working days)
A	<p>This category is for development causing serious threat to public health and safety, or permanent, serious damage to the natural or built environment.</p> <p>Examples</p> <ul style="list-style-type: none"> • Activities that have the potential to cause irreparable harm to Conservation Areas, Sites of Special Scientific Interest, the Cotswold Area of Outstanding Natural Beauty etc • Unauthorised development that represents a serious danger to members of the public • Ongoing unauthorised works to a listed building • Ongoing unauthorised works to a protected tree 	1	3
B	<p>Less urgent than Priority Category A, but considered harmful with the potential to get worse.</p> <p>Examples</p> <ul style="list-style-type: none"> • Unauthorised on-going construction • Breach of planning conditions precedent • Breach of an enforcement notice • Unauthorised advertisements that constitute a potential highway danger • Sub-standard living accommodation resulting from an unauthorised change of use 	5	10
C	<p>This category covers the majority of cases, where there is a possible breach but one that is unlikely to get any worse.</p> <p>Examples</p> <ul style="list-style-type: none"> • Unauthorised construction • Unauthorised advertisements not covered in category B • Unauthorised works to a listed building 	15	20

The examples set out in the table are not exhaustive and each case will be judged on its own merits and prioritised accordingly.

4.2 Many cases will require repeat site visits, negotiation, the serving of notices on owners and, in a limited number of cases, prosecution before the breach is resolved. The Planning Enforcement Officer allocated to each case will keep original complainants informed on a regular basis of progress. They will indicate arrangements for how they

will achieve this in their initial response as well as set out a strategy, where appropriate, for resolving the alleged breach identified. The timescale for the initial response is set out in the table above. Complainants will also be invited to contact the Planning Enforcement Officer directly for a case update as well providing them with an opportunity to forward new information relevant to the case. Although some breaches take a considerable time to resolve, the Council aims to resolve 80% of cases within 13 weeks of the receipt of the complaint.

5 The Investigation Process

Registration

- 5.1 Each new case is recorded on our database and given a unique reference number. As part of this process a Planning Enforcement Officer will be allocated to carry out the investigation. An acknowledgement email or letter will be sent once this process has been completed.

Gathering Evidence

- 5.2 Where a complaint relates to an alleged unauthorised use of land, officers will make a reasonable attempt to determine whether a breach has taken place. In most cases a *reasonable attempt* will consist of an appropriate number of site visits at days and/or times deemed most suitable for the allegation (see Section 4). This approach ensures that the Council's resources are used efficiently.
- 5.3 Where officers can find no evidence of a planning breach the investigation will be closed and no further action taken. Such cases will not be reinvestigated unless the complainant is able to provide more substantive evidence of the alleged breach of planning.
- 5.4 Officers may make use of the Planning Contravention Notice (see Section 6) and if they have reasonable suspicion that a breach of planning is likely to have occurred. In more serious cases officers will invite the transgressor to attend an interview under caution at the Council offices. These tools will be used in accordance with Government guidance and best practice.

Research

- 5.5 Officers may use a variety of other methods to determine whether or not a breach of planning control has taken place, including obtaining information from witnesses to the alleged breach, other Council officers and contacts in other organisations who have a knowledge of the site in question. The Council may also seek clarification on certain points by researching case law or obtaining legal advice where the subject of an investigation is particularly complicated or contentious.

6 What Happens when a Breach is Found?

Initial Actions

No Further Action

- 6.1 The Council may, following initial investigation, decide that there has been no breach of planning control or that the breach is so minor or insignificant in nature that it is not expedient to take formal action, or that there is insufficient evidence to pursue the matter further.
- 6.2 Just because a building, extension, structure, use or advertisement is in breach of planning control this is not, in itself, a reason to take enforcement action. Even when it is technically possible to take action the Council is required to first decide if formal action would be proportional and expedient (see Section 3). The Council will not take action against breaches of planning control which do not cause material planning harm.

Retrospective Planning Permission

- 6.3 Where a breach of planning control has occurred, but no harm is being caused, or any harm might be removed or alleviated by the imposition of conditions on a planning permission, a retrospective planning application will be sought. If a retrospective application is not submitted within one calendar month of a written request to do so, or the application remains invalid (e.g. the applicant has not provided the fee or has failed to provide all the requisite information) for two calendar months, the Council will consider whether or not it is expedient to take formal enforcement action.

Voluntary Compliance through Negotiation

- 6.4 Where it is considered that the breach of planning control is unacceptable, the Council will initially attempt to negotiate a solution without recourse to formal enforcement action, unless the breach is causing irreparable harm. Negotiations may involve the reduction or cessation of an unauthorised use or activity, or the modification or removal of unauthorised development.

Formal Action

Although the Council will nearly always be willing to enter into negotiations, in the event that a solution to a breach cannot be reached, the Council has recourse to the following:

Planning Contravention Notice (PCN)

- 6.5 Where it appears that a breach of planning may have occurred but the Council wishes to find out more information before deciding what if any enforcement action to take the Council may serve a Planning Contravention Notice (PCN). A PCN (section 171c of the TCPA) can be served on the owner or occupier of the land, anyone who has an interest in the land, or anyone who is using the land for any purpose. The PCN requires the owner/occupier to provide written information about ownership and the activities taking place on the land or within any buildings on the land. The PCN may invite the owner/occupier to meet with Council officers to discuss the matter in person.
- 6.6 This form of action may be useful where the Council considers that planning permission could be granted after the unauthorised development has been carried out (i.e. a retrospective planning application) but the owner or operator has not made an

application. It is an offence to fail to respond to a PCN within 21 days or make false or misleading statements in reply. There is no right of appeal against a PCN.

Section 330 Notice

- 6.7 Where it is important to obtain clarification about the ownership and the people occupying a property, a Notice can be served, under Section 330 of the TCPA, on the apparent owner or occupier. This will require them to confirm details of those persons who have a legal interest in the property. There is no right of appeal against a Section 330 Notice and failure to respond may be an offence.

Powers of Entry for Enforcement Purposes

- 6.8 In addition to the investigative powers outlined above, Council officers also have power to enter land, specifically for enforcement purposes. This right is limited to what is regarded as necessary to ensure effective enforcement in the particular circumstances. A notice period of 24 hours is required before entry to a dwellinghouse can be legally required. Prior notice is not required for access to domestic outbuildings or garden land, industrial, commercial or farmland etc. Where entry is refused or obstructed it is possible to apply to a magistrate for a warrant to allow entry.

- 6.9 In order to provide greater clarity in April 2015 the Government published the *Power of Entry: Code of Practice*. The stated aim of the code is that it *provides guidance and sets out considerations that apply to the exercise of powers of entry including, where appropriate, the need to minimise disruption to business. It will ensure greater consistency in the exercise of powers of entry, and greater clarity for those affected by them, while upholding effective enforcement*. This document can be found via the Government publications website (see Section 10).

Enforcement Notice

- 6.10 An Enforcement Notice is the most common form of notice used to deal with unauthorised development. The notice will specify what the alleged breach is, the steps that must be taken to remedy it and a time period in which to carry out those steps. An Enforcement Notice cannot come into effect until at least 28 days after it is served. Prior to the date that the notice comes into effect the recipient of the notice has a right of appeal to the Secretary of State for Communities and Local Government through the Planning Inspectorate (see www.gov.uk).
- 6.11 If an appeal is lodged, the Planning Inspectorate will allocate an Inspector to determine the appeal. The Inspector acts as an independent arbitrator between the Council and the individual(s) to whom the Enforcement Notice was served. If a valid appeal is made, the requirements of the Enforcement Notice are suspended until the appeal has been determined or it is withdrawn. If the Enforcement Notice is upheld the time period for compliance will run from the date of the Inspector's decision.

Listed Building and Conservation Area Enforcement Notices

- 6.12 A Listed Building Enforcement Notice may be issued when unauthorised works are carried out to listed buildings. Where the demolition of unlisted buildings within a Conservation Area occurs without consent a Conservation Area Enforcement Notice may be issued. As with an Enforcement Notice the recipient has a right of appeal to the Secretary of State.

Section 215 Notice

- 6.13 Where the condition of buildings or land causes serious harm to the amenity of an area, the Council may serve a notice on the owner and occupier under Section 215 of the TCPA. Such a notice would set out steps for improving the condition of the land or buildings and specify a timeframe for compliance. The notice can be appealed at a magistrate's hearing. Failure to comply with a Section 215 Notice may be an offence subject to a current maximum fine of £1,000.

Breach of Condition Notice (BCN)

- 6.14 This type of notice is used where planning permission has been granted subject to conditions and one or more of the conditions has been breached. The Council can issue a Breach of Condition Notice (BCN) to ensure full or part compliance with the planning conditions. A BCN would state the breach and the steps required to remedy the breach. The notice will allow a minimum of 28 days in which to comply with its requirements. There are no rights of appeal against a BCN. Failure to comply with a BCN may be an offence prosecutable in the magistrates' court and is subject to a current maximum fine of £2,500.

Stop Notices

- 6.15 When the effects of unauthorised activity are seriously detrimental, a Stop Notice may be served to ensure that an activity does not continue if an appeal is lodged against an Enforcement Notice. A Stop Notice can only be served where an Enforcement Notice has been issued. A Stop Notice can relate to any, or all, of the uses or activities specified in the Enforcement Notice. It does not apply to works to a listed building. A Stop Notice can require a use or activity to cease 3 days after it is issued.
- 6.16 It is an offence to contravene a Stop Notice and can result in an unlimited fine at the Crown Court. Whilst there is no right of appeal against a Stop Notice, the validity of a Notice or the decision to issue the notice can be challenged in the courts by an application for judicial review.

Temporary Stop Notices

- 6.17 Where the Council considers that a breach of planning control should stop immediately, it can serve a Temporary Stop Notice. Such a notice expires 28 days after it has been served and during this period the Council must decide whether it is appropriate to take further enforcement action. Once a Temporary Stop Notice has been served it is not possible to serve further Temporary Stop Notices for the same breach of planning control.
- 6.18 There are restrictions on the use of Temporary Stop Notices; for example, such a notice cannot prohibit the use of a building as a dwellinghouse and may not prevent the continuance of an activity which had been carried out for a period of four years (see Section 7).

Discontinuance Notice (unauthorised advertisements)

- 6.19 It is an offence for any person to display an advertisement in contravention of The Town and Country Planning (Control of Advertisement) (England) Regulations 2007. A Discontinuance Notice may only be served if the Council is satisfied it is necessary to do so to remedy a substantial injury to the amenity of the locality or a danger to members of the public. The act also enables the Council to take discontinuance action against any advertisement, which normally has the benefit of deemed consent. There is a right of appeal against a Discontinuance Notice. Rather than issuing a notice, the Council may, in certain circumstances, go straight to prosecution.

Completion Notice

- 6.20 A Completion Notice may be served if the Council is of the opinion that development (which has started within the statutory 3 year period if planning permission was originally required) will not be completed within a reasonable period. For this type of notice, the period for compliance has to be a minimum of 12 months. The Council must also refer the notice to the Secretary of State for confirmation. There is a right of appeal against a Completion Notice.

Planning Enforcement Order (PEO)

- 6.21 The Localism Act 2011 introduced the power for LPAs to apply to the magistrates' court for a Planning Enforcement Order (PEO). Such an order would be sought where there has been a deliberate attempt to conceal a breach of planning control. Where a PEO is granted, the Council will have 1 year and 22 days to serve an Enforcement Notice, beginning on the day that the order is granted, irrespective of how long ago the breach first occurred. The 4 year and 10 year periods of immunity (see Section 7) will not apply in cases of a concealed breach. An application for a PEO must be made within 6 months of the Council becoming aware of the breach. A magistrates' court may only make a PEO if it is satisfied that the breach has been deliberately concealed.

What Happens after a notice is served?

- 6.22 Recipients of a notice/order will normally respond in one of three ways:
- Comply fully with the notice/order – at which point the case is closed
 - Contest the notice/order by way of an appeal to the Planning Inspectorate or challenge in a court of law (depending on which notice has been served)
 - Fail to comply or fully comply with the notice/order
- 6.23 Where a case goes to appeal there can be quite a significant delay in reaching a resolution particularly if the case goes to Public Inquiry. If the appeal against the notice is allowed and/or planning permission is granted this will normally be the end of the matter. If the appeal is dismissed, or no appeal is made, failure to comply with the requirements of the notice/order will usually result in the Council pursuing a prosecution.

Direct Action

- 6.24 Failure to comply with the requirements of an Enforcement Notice, Breach of Condition Notice or a Section 215 notice may result in the Council carrying out works required by that notice. Any costs and expenditure incurred in carrying out such works can be recovered from the landowner and where costs and expenditure are not recovered they can be registered as a charge on the land.

Injunctions

- 6.25 Section 187B of the TCPA is available for the Council to apply to the courts for an injunction to stop an actual or alleged breach of planning control. Injunctions are a discretionary order. They can be used to require someone to stop carrying out an activity or to require them to remedy a breach. They are usually only used where there is urgency, where the planning breach is serious or where other legal processes have not led to the breach being rectified. Failure to comply with an injunction can lead to an unlimited fine and/or imprisonment.

Prosecution

- 6.26 A breach of planning control is not a criminal offence. However, non-compliance with the requirements of a formal notice may be a criminal offence and on conviction the person served with the notice may be subject to a fine. Where a transgressor has failed to comply with a formal notice the Council will normally instigate prosecution proceedings if there is a realistic prospect of conviction and it is considered to be in the public interest to do so. A successful prosecution does not, however, always mean that a breach will be remedied. In such instances the Council has recourse to further prosecutions which could result in more substantial fines and or imprisonment.
- 6.27 The legal mechanisms open to the Council are not limited to those set out above. The Council may for example look to recover profits made from unauthorised development through the Proceeds of Crime Act 2002.

7 Immunity from Enforcement Action

Time Limits

7.1 The Planning and Compensation Act 1991 (part of the TCPA) introduced rolling time limits within which the Council can take planning enforcement action against breaches of planning control. The time limits are: -

- 4 years for building, engineering, mining or other operations in, on, over or under land without planning permission

Development becomes immune from enforcement action four years after the operations are substantially completed

- 4 years for the change of use of a building, or part of a building, to use as a single dwellinghouse

This development becomes immune from enforcement action four years after the date the change of use first occurred.

- 10 years for all other changes of use and breaches of conditions

The ten year period runs from the date the breach of planning control first commenced.

- * These time limits do not apply where the Council considers that the unauthorised development has been deliberately concealed (see Planning Enforcement Order in Section 6)

Lawful Development Certificates

7.2 If owners of land or property consider that a breach of planning control has become immune from enforcement action they may apply for a Certificate of Lawful Use Existing (CLUE). The decision to approve or refuse a certificate will be dependent on the applicant submitting documentation to establish that *on the balance of probability* the lawfulness of the existing development exceeds the relevant time requirement set out above. Given the nature of the application, the Council's Legal Team are involved in the evaluation of the information provided.

7.3 This option is well worth considering because if a landowner should later want to sell their property, the CLUE can be used to answer queries raised by potential buyers or their legal representatives regarding the legality of building works or uses.

8 What happens if you are the Subject of an Investigation?

- 8.1 The Council understands that in many cases a breach of planning control is not intentional and can be the result of a misunderstanding or a lack of an awareness of planning legislation. Therefore, if you receive a letter from the Council or a visit from a Planning Enforcement Officer, the Council encourages you to respond positively and provide the information which we need to resolve the matter. It is in the interests of all parties if an identified breach can be addressed at an early stage.
- 8.2 The Council has a duty to investigate complaints alleging a breach of planning, even if they prove to be unfounded. If you are contacted about an alleged breach you are entitled to know what the allegation is and to have the opportunity to explain your side of the case. However, the Council will not disclose the identity of the complainant(s). The matter can obviously be resolved quickly if it is determined that there is no breach. In other cases a resolution may be negotiated, however this does not mean that you can delay any response or action. We expect you to respond within the stated timescales and we will pursue prosecutions for failures to respond to formal notices (see Section 6). The Council will not allow protracted negotiations to distract it from taking appropriate action.
- 8.3 In many cases, particularly where the development is likely to be acceptable, we may invite you to submit a retrospective planning application, although this is on the understanding that it will not prejudice any decision the Council may take. In cases where planning permission has been obtained and the deviation from the approved plans is very minor, you may be entitled to apply for a non-material amendment. In cases where pre-commencement conditions have not been discharged, you may still be able to apply to discharge the condition or alternatively you may need to submit a new planning application.
- 8.4 You should be aware that Planning Enforcement Officers have legal rights of entry to land and property in order to investigate alleged breaches of planning or compliance with Enforcement Notices (see Section 6). The Planning Enforcement Officer will make themselves known to the landowner/developer when they enter a site. It is not always appropriate or possible to give advance warning of a site visit, although in most circumstances the Council will try to do so. In most cases a letter will be sent to you to alert you to a potential breach of planning control as soon as the Council is made aware of it. The letter will advise you to contact the officer dealing with the case at the earliest opportunity.
- 8.5 As your presence is not always required, a Planning Enforcement Officer's visit can be unaccompanied. If it is necessary to enter your house, (as opposed to surrounding land) you are entitled to 24 hours notice. If you actively prevent an Enforcement Officer from entering onto your land the Council can obtain a warrant. Once a warrant has been issued, any obstruction preventing access to the site will be considered a criminal offence. The Council can also call on the Police and a locksmith to force entry.
- 8.6 The Council will use the information gained from a site visit to help assess the harm being caused and what further action, if any, needs to be taken. In addition, you may be served with a PCN (see Section 6) which requires you to provide information concerning the alleged development. PCNs are used to establish the facts of the alleged breach and the details of those with an interest in the land.
- 8.7 If negotiations are unsuccessful or are not appropriate, Planning Enforcement Officers will attempt to explain and to help you understand the implications for any action the

Council may pursue as set out in Section 6. Whilst, we will endeavour to advise you on the planning merits or otherwise of an unauthorised development, Planning Enforcement Officers will not act as your advisor and cannot make decisions on your behalf.

- 8.8 You should therefore consider whether to get your own independent advice from a qualified planning consultant or another appropriate property or legal professional. If you cannot afford to employ a consultant you can contact Planning Aid, which is a voluntary service offering free independent, professional advice (see the RTPI website - details in Section 10).
- 8.9 It is worth noting that if you subsequently wish to sell a property which has been subject to unauthorised works or a change of use, you may find the sale is delayed or lost when would-be purchasers undertake standard property searches. The Planning Enforcement Team will advise the Council's Land Charges Team of those sites where formal notices have been served, decisions have been made and where potential enforcement action remains outstanding. You should also be aware that the Council usually make mortgage providers and other parties with a financial interest aware of breaches of planning permission and we will send them a copy of any formal notice or decision relating to planning enforcement.

9 Improving Planning Enforcement

- 9.1 The Council will monitor the length of time taken from the receipt of information regarding a suspected breach of planning to the conclusion of the case. This data will be

assessed against the timescales set out in Section 4 of this document. This is carried out to ensure that complaints are processed as quickly as possible and also identify appropriate changes to the way in which the Planning Enforcement Team operates.

- 9.2 In order to maintain public confidence in the planning process, the PPG asks LPAs to consider a proactive approach to enforcement. The Council will therefore identify a sample of planning applications, and other development where formal permission was not sought, to check for compliance. The outcome of the compliance check will be reported to the applicant/owner and agent. Any non-compliance will be addressed through normal enforcement practice.

10 Complaints Procedure

- 10.1 The Council will make every effort to provide good customer service and to follow the procedures set out in this document. If however, you have a complaint against the service you have received that cannot be resolved by the Planning Enforcement Officer or their line manager you may wish to follow our formal complaints procedure; details of which can found on our website.
- 10.2 If having been through the Council's complaints procedure, you remain dissatisfied with the Council; you can refer your complaint to the Local Government Ombudsmen. Their contact details can also be also be found on the Council's website. The Ombudsman will investigate the administration of the planning process; they do not have the power to reconsider a planning or enforcement decision.

11 General Information

Useful Websites

Cherwell District Council – cherwell.gov.uk

Access to the Council's Local Plans and various design guidance documents.

Environment Agency - www.gov.uk/government/organisations/environment-agency

The Environment Agency has a number of powers to deal with unauthorised waste sites that pollute land and or waterways.

Oxfordshire County Council – oxfordshire.gov.uk

The County Council takes responsibility for fly-tipping or any obstruction on the highway or the highway verge.

Government Legislation - www.legislation.gov.uk/

This website provides an electronic library of the current legislative background. The search facility allows users to focus on planning legislation.

Government Publications - www.gov.uk/government/publications

Up-to-date electronic record of all Government documents, guidance and statistics.

Planning Inspectorate - gov.uk/government/organisations/planning-inspectorate

The Planning Inspectorate is an executive agency sponsored by the Department of Local Government which arbitrates on most planning appeals. This website explains the appeal process and what is required to validate an appeal. It also provides an electronic library of previous planning appeal decisions.

Planning Portal - planningportal.gov.uk

This Government website provides general planning advice and guidance. It explains what type of development requires or is likely to require planning permission and provides details of the various forms of enforcement action set out in Section 6. It also has links to other relevant Government guidance and legislation. Planning applications can be submitted via the website as can enforcement and planning appeals.

Royal Town Planning Institute - www.rtpi.org.uk

The RTPI is the principal body representing planning professionals in the United Kingdom and Ireland. As part of its remit it provides a voluntary service through Planning Aid which offers free independent, professional advice. Also of relevance, it provides contact details of affiliated local planning consultancies.

Commonly used Planning Enforcement Acronyms

AONB – Area of Outstanding Natural Beauty

BCN – Breach of Condition Notice

CLUE/CLUED – Certificate of Lawful Use Existing (also referred to as a Lawful Development Certificate for an Existing Use)

GPDO – Town and Country Planning (General Permitted Development) (England) Order 2015

LBC – Listed Building Consent

LEP – Local Enforcement Plan

LPA – Local Planning Authority (e.g. Cherwell District Council)

NPPF – National Planning Policy Framework

PCN – Planning Contravention Notice

PEO – Planning Enforcement Order

PPG – Planning Practice Guidance (sometimes referred to as the NPPG)

RTPI – Royal Town Planning Institute

SPD – Supplementary Planning Document

SPG - Supplementary Planning Guidance
SSSI – Site of Special Scientific Interest
TPO – Tree Preservation Order
TCPA – Town and Country Planning Act 1990

Planning Definitions

Amenity

Throughout this document there are a number of references to amenity. Whilst amenity is not defined in legislation, in planning terms is commonly considered to refer to the overall quality and character of an area. Factors which contribute to an area's quality and character include:

- types of land uses
- quality of the built form
- provision of open land and trees
- the inter-relationship between all the different elements that make up the local environment

Curtilage

As with amenity there is no legal definition of curtilage. Recent Government technical guidance defined domestic curtilage as follows:

What is defined as the curtilage for a particular house will vary according to a number of factors, but in most cases it will comprise the area of land around the original house (i.e. what is understood to be the garden/grounds of the house). But the curtilage may be a smaller area in some cases, especially in the case of properties with large grounds set in the countryside.

12 How to Report a Breach of Planning Control

12.1 If you are reporting a breach of control, the simplest way is to do so via the enforcement page on the Council's web-site. The electronic form prompts you to submit all the

relevant details relating to the alleged breach and also allows you to forward any supporting documentation (including pictures) as pdfs, gifs or jpegs.

12.2 Whilst officers are willing to speak to complainants in the first instance, they will be asked to confirm their concerns via the Council's website, in an email or in writing.

12.3 In the majority of cases, if a complainant is unwilling to divulge their personal details the Council will not investigate the alleged breach. The exception to this rule is where irreparable harm could be caused to a listed building. Complainants should be reassured that in accordance with the Data Protection Act 1998, the Council will not disclose any information relating to their identity. This obviously, however, does not prevent the alleged offender from making assumptions about who has made the complaint.

Your name, address, phone number and preferably your email address.
The location and exact address of the building or site.
The landowner or occupier's name.
What the breach involves.
How the breach is affecting you and residents in the local area.
The date you first became aware of the breach.

New Homes Bonus consultation response

Question 1: What are your views on moving from 6 years of payments under the Bonus to 4 years, with an interim period for 5 year payments?

We believe that the current system works well and should remain as it is. The proposal to revise the system penalises authorities that have delivered the most housing. This seems inequitable and is certainly not *sharpening* the incentive.

We have embraced the Government's growth agenda and, as a result, have seen significant housing growth and the bringing back into use of empty properties.

The New Homes Funding associated with this type of growth has been incorporated into our financial plans and medium term financial strategy. Any changes to the period of payment will have a detrimental impact on the Council's finances.

The money has been used primarily for Economic Development activity (including the accelerated roll out of Superfast Broadband across the District). Some payments have also been made to Communities that have had housing growth on projects for the Community promoted by the Community.

The Government made it clear when the original scheme was launched that they would expect communities that faced housing growth to receive some of the funding and we have delivered on that commitment.

If funding is pared back as proposed all of this investment in the economy and the Communities that have faced growth will also have to be pared back or stopped completely in order to ensure we continue to have a balanced budget.

Clearly, if the Government is determined to change the payment period then the preference of this Council would be to move to a four year scheme with an interim five year payment period.

Question 2: Should the number of years of payments under the Bonus be reduced further to 3 or 2 years?

Based on the comments given in Question 1 this Council is clearly against watering down or weakening the incentive by moving to just a three or two year scheme. Taking this approach does not give any real incentive to pursue the growth agenda as the additional cost burden that comes with increased housing is only compensated for a relatively short period of time compared to the current scheme.

Question 3: Should the Government continue to use this approach? If not, what alternatives would work better?

It is the view of this Council that the current calculation used is the most equitable.

Using band D equivalent growth is easy to understand and is also consistent with how the taxbase is calculated.

Generally larger houses will be banded at the higher rate and will have more occupants than lower banded properties. The costs of providing services to these houses will therefore be greater and therefore taking a Band D equivalent approach is a sound rationale to use and should not be altered.

Question 4: Do you agree that local authorities should lose their Bonus allocation in the years during which their Local Plan has not been submitted? If not, what alternative arrangement should be in place?

This Council has an adopted local plan and therefore supports the methodology which retains payments for a six year period and penalises authorities that do not have an adopted local plan.

This is consistent with our response to question 1.

Question 5: Is there merit in a mechanism for abatement which reflects the date of the adopted plan?

This authority does not believe there is merit in such a mechanism.

It is accepted that the Government is trying to 'sharpen the incentive' but the scheme should also remain easy to understand and implement and should not become overly complicated or administratively burdensome.

For these reasons the Council is against this mechanism for abatement. Payments should be made as long as the Council has an adopted local plan. This makes the incentive sharper and clearer and avoids confusion.

Question 6: Do you agree to this mechanism for reflecting homes only allowed on appeal in Bonus payments?

The consultation document is not clear in relation to this issue. We believe that the government's preferred option as set out in paragraph 3.21 is to use the detail on successful planning appeals to make a New Homes Bonus deduction in the year of the appeal success rather than when the houses are built out.

This is not justifiable as we would be having a deduction from our new homes bonus payment for houses (where planning permission was granted at appeal) for which we are yet to receive new homes bonus payments on.

The position set out in paragraph 3.23, whilst not being the Government's preferred option, is more equitable.

This would ensure that when a new house is built which was subject to a planning permission granted on appeal the new homes bonus for that particular house would not be received upon completion and occupation of the house.

Appendix 2

This has to be the right approach rather than make an arbitrary deduction on houses where planning permission is granted on appeal but for which the NHB has not yet been (and may never be) received.

Question 7: Do you agree that New Homes Bonus payments should be reduced by 50%, or 100%, where homes are allowed on appeal? If not, what other adjustment would you propose, and why?

We do not believe any reduction is appropriate and oppose this approach. There are many reasons for houses to be allowed on appeal, if built, the houses still have local service consequences that the New Homes Bonus contribute to addressing.

As an example, if you have a local plan and you follow it and you get an application outside the allocated areas which is refused for good reason, to have the threat of loss of £1m as well renders the local plan useless. The loss of cash will always play heavily in members minds. The government must be resolute in getting inspectors to support the local plan.

However, should the Government insist on financially penalising new houses where the permission was granted on appeal then we would wish for this penalty to be as low as possible.

It is also important that any deduction is taken when the houses are completed and occupied and therefore when the NHB payment would have been made on those houses. This is consistent with our response to question 6.

Question 8: Do you agree that reductions should be based on the national average Band D council tax? If this were to change (see question 2) should the new model also be adopted for this purpose?

Again, it is not clear what the question being asked here is.

If it is just asking that the Band D equivalent is the appropriate calculation method then we support that as set out in question 3 (not question 2 as stated in the consultation paper).

However, we do not think that this should be used as a 'broadbrush' estimate of how much NHB to deduct because the data isn't available to do anything else.

In fact, and in line with our responses to questions 6 and 7, we do not support the deduction being taken ahead of the houses being completed and occupied as we would be having deductions of NHB being taken on payments not being received which is patently wrong.

Making the deduction ahead of completion and occupation using a proxy or estimate (if this is what the question is asking) just unnecessarily complicates the matter further.

Question 9: Do you agree that setting a national baseline offers the best incentive effect for the Bonus?

No. The bonus should be paid in relation to numbers of houses that are built come what may. It is an incentive to reward housing growth and therefore all housing growth should count. To bring in an arbitrary baseline is simply a mechanism to reduce payments and actually penalises authorities that are growing at the greatest rate as their baseline position will increase by the greatest relative amount on which the % baseline will be applied and therefore they are penalised the most. Authorities that grow at the greatest rate will actually have a bigger reduction in NHB which is nonsensical.

This Council thinks that setting a national baseline provides no incentive at all for growth.

Question 10: Do you agree that the right level for the baseline is 0.25%?

See response to question 9. This Council does not believe that the setting of a baseline provides any incentive at all and cannot understand the rationale behind this approach. The right level should therefore be 0%.

Question 11: Do you agree that adjustments to the baseline should be used to reflect significant and unexpected housing growth? If not, what other mechanism could be used to ensure that the costs of the Bonus stay within the funding envelope and ensure that we have the necessary resources for adult social care?

No we do not believe there should be a reduction to reflect significant and unexpected housing growth. Significant and unexpected housing growth is not defined but it is assumed that it means the cost of the scheme exceeds the Government's budget set for the scheme.

This consultation paper is supposed to be about sharpening the incentive, making the financial incentive greater for those authorities embracing the Government's growth agenda.

It would be wrong if the scheme sharpened the incentive so much that Government then had to use artificial baselines to bring back Government spend within available budget. The additional economic benefit of increased housing growth and regeneration are well known and if local authorities deliver and exceed the Government's agenda (and deliver all the benefits that go with that) they should not be financially penalised.

This Council is against the setting of baselines as set out in our response to questions 9 and 10 and certainly do not agree that baselines should then be adjusted to restrict payments made to local authorities in the event that Councils exceed the expectation of housing delivery and growth set by the Government.

Appendix 2

Question 12: Do you agree that the same adjustments as elsewhere should apply in areas covered by National Parks, the Broads Authority and development corporations?

We believe that our comments made throughout this consultation exercise should be considered in the formulation of the revised scheme.

However, once the scheme is finalised we believe that it should be applied consistently across all areas including those covered by the National Parks Authorities and the Broads Authority.

Question 13: Do you agree that county councils should not be exempted from adjustments to the Bonus payments?

We agree that County Councils should not be exempted from adjustments to the bonus payments. In line with the response to question 12 the revised scheme, once determined, should be applied consistently to all the local and public authorities it affects.

Moreover, we think that the split between the District Council and County Council should be amended so that 100% is retained by the planning authority (the District or Borough Council in two tier areas). Particularly in the light that funding is being diverted away from New Homes Bonus allocations and into Social Care pressures which will therefore be received solely by County Councils in two tier areas.

Question 14: What are your views on whether there is merit in considering protection for those who may face an adverse impact from these proposals?

We believe that there is merit in considering protection but it should not disproportionately penalise those authorities that have delivered against the Government's growth agenda.

The scheme should be designed so that authorities that have delivered the greatest housing growth gain the greatest financial reward.